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ICC Washington, D. C.

EASTOVER LAND COMPANY
Brookside, Kentucky 40811

September 29, 1976

Secretary
Interstate Commerce Commission
Washington, D. C. 20423

RECORDATION NO. 8496 Filed & Recorded

SEP 29 1976 4 14 PM

INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 8496 Filed & Recorded

SEP 29 1976 4 14 PM

INTERSTATE COMMERCE COMMISSION

Dear Sir:

I transmit for recording with the Commission, pursuant to Section 20c of the Interstate Commerce Act (Act), three executed copies of each of the following documents:

(a) Project Development Agreement, dated as of August 1, 1976, between Eastover Land Company and Peter White Coal Mining Corp.

(b) Assignment of Project Development Agreement, dated as of August 1, 1976, among Eastover Land Company, as Assignor, Peter White Coal Mining Corp., and Girard Trust Bank, as Trustee.

(c) Trust Indenture and Security Agreement, dated as of August 1, 1976, between Eastover Land Company and Girard Trust Bank, as Trustee.

It is the intention of Eastover Land Company (the "Company") to effect such filings with the Commission only to the extent required, if at all, to perfect the security interest created by the above documents in the equipment described below; such recording should not be deemed to be an admission by the Company that it or any of its operations are under the jurisdiction of the Commission nor does the Company by this recording in any way submit to the jurisdiction of the Commission.

The equipment covered by the above documents includes the following:

<u>Quantity</u>	<u>Description</u>	<u>Manufacturer</u>	<u>Serial No.</u>
1	Battery Locomotive	New River Mfg.	300-003
24	Rail Cars	ACDF Ind.	None
1	Underground Rail- road		
1	Rail Runners	New River	M100353
1	Rail Runners	New River	M100362
1	Rail Runners	New River	65
1	Rail Runners	New River	66
1	Rail Runners	New River	200-0033

The names and addresses of the parties to the transaction are as follows:

Peter White Coal Mining Corp.
c/o Hawley Fuel Corporation
1 Dag Hammarskjold Plaza
New York, New York 10017

Eastover Land Company
Brookside, Kentucky 40811

Girard Trust Bank, as Trustee
4 Girard Plaza
Philadelphia, Pennsylvania 19101

There is also enclosed a check for the recordation fee in the amount of \$100.00.

-3-

Kindly return to bearer one counterpart of
each document filed herewith.

Very truly yours,

EASTOVER LAND COMPANY

By *Ronald Bost*
President

14
64.0
RECORDATION NO. **8496 B** 8496 E
& Recorded

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INTERSTATE COMMERCE COMMISSION

Trust Indenture and Security Agreement

Dated as of

August 1, 1976

BETWEEN

EASTOVER LAND COMPANY

AND

GIRARD TRUST BANK,

as Trustee

10½% Senior Secured Notes due December 1, 1985

9½% Senior Secured Notes due December 1, 1985

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TRUST INDENTURE AND SECURITY AGREEMENT dated as of August 1, 1976 (herein, as amended or supplemented from time to time as permitted hereby, called "this Indenture"), between EASTOVER LAND COMPANY, a Kentucky corporation (herein together with its successors and assigns called the "Company"), having a principal place of business at Brookside, Kentucky 40811, and GIRARD TRUST BANK, a Pennsylvania banking corporation, as trustee hereunder (herein in such capacity, together with its permitted successors in the trusts hereunder, called the "Trustee"), having an address at 4 Girard Plaza, Philadelphia, Pennsylvania 19101.

PRELIMINARY STATEMENT

Certain terms used in this Indenture and not elsewhere defined are defined in Article XI. The Company has determined to borrow money for its corporate purposes, to issue Notes to evidence such borrowings and to Grant its interest in the Trust Estate as security for the payment of all sums payable on or with respect to the Notes and the performance of all the obligations of the Company under this Indenture.

All covenants and agreements herein made by the Company are for the benefit and security of the holders from time to time of the Notes. The Company is entering into this Indenture, and the Trustee is accepting the trusts created hereby, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged.

The Company hereby Grants to the Trustee all of its estate, right, title, interest, claim and demand in, to and under the property described in the Granting Clauses. As confirmation of the assignment contained in Granting Clause Second, the Company is also executing and delivering to the Trustee the Assignment of Project Development Agreement.

No obligation of the Company under the provisions of any instrument included in the Trust Estate shall be impaired or diminished, or imposed upon the Trustee, by virtue of the Grant to the Trustee.

GRANTING CLAUSE FIRST

THE EQUIPMENT

The Equipment, including all the items of personal property described in Schedule A hereto and all the replacements therefor required or intended to be subject to the lien of this Indenture pursuant to the terms hereof.

GRANTING CLAUSE SECOND

THE PROJECT DEVELOPMENT AGREEMENT

All right, title and interest of the Company under the Project Development Agreement not specifically excepted in the Assignment of Project Development Agreement, *provided, however*, that so long as no Event of Default has occurred, the Company shall be entitled to continue to exercise all of its rights, powers and options under the Project Development Agreement to the extent provided in the Assignment of Project Development Agreement.

GRANTING CLAUSE THIRD

OTHER AND AFTER-ACQUIRED PROPERTY

The After-Acquired Property. It is the intention of, and is agreed by, the Company and the Trustee that all property hereafter acquired by the Company and required or intended to be subject to the lien of this Indenture shall forthwith upon the acquisition thereof by the Company be as fully embraced within the lien of this Indenture as if such property were now owned by the Company and were specifically described in this Indenture and Granted thereby or pursuant hereto; and the Trustee is hereby authorized to receive any and all such property as and for additional security for the payment of the Notes and all other sums secured or intended to be secured hereby and compliance with the provisions hereof.

GRANTING CLAUSE FOURTH

PROCEEDS

All proceeds of the conversion, voluntary or involuntary, of any of the foregoing into cash or other liquidated claims, including without limitation, all proceeds of insurance and condemnation awards and payments.

TO HAVE AND TO HOLD all and singular the Trust Estate, whether now owned or held or hereafter acquired, unto the Trustee forever;

SUBJECT, HOWEVER, to the provisions of this Indenture and to Permitted Encumbrances;

IN TRUST, NEVERTHELESS, with power of sale, for the equal and ratable benefit and security of the Notes, without preference, priority or distinction of any thereof over any other by reason of difference in time of issuance or otherwise, and for the enforcement of the payment of the principal of, premium, if any, and interest on, the Notes in accordance with their respective terms, and all other sums payable under this Indenture, or on the Notes, and compliance with the provisions of this Indenture, all as herein provided.

IT IS HEREBY COVENANTED, DECLARED AND AGREED that the Notes are to be issued and secured, and the Trust Estate is to be held, dealt with and disposed of by the Trustee, upon and subject to the provisions of this Indenture.

ARTICLE I

THE NOTES

SECTION 1.01. Requirements.

(a) Each Note shall be issued as either an Order Note or a fully Registered Note without coupons pursuant to Section 1.03 or 1.04.

(b) The 10½ % Notes shall:

(i) be designated "10½ % Senior Secured Notes due December 1, 1985";

(ii) be limited in aggregate principal amount to \$18,000,000, and each be in a denomination of \$1,000 or more;

(iii) if issued pursuant to Section 1.03, each be dated the date of issuance thereof;

(iv) mature on December 1, 1985;

(v) each bear interest (computed as if each year consisted of 360 days and each month consisted of 30 days) on the unpaid principal amount thereof from the date thereof to maturity, whether by acceleration or otherwise, at the rate of 10½ % per annum, and (to the extent lawful) on any overdue principal, premium and interest, at the rate of 11½ % per annum;

(vi) each be due and payable as to interest accrued from the date thereof to December 1, 1976, to the extent then accrued and unpaid, on December 1, 1976;

(vii) each be due and payable on March 1, 1977 and each Payment Date thereafter to and including December 1, 1985 in 36 quarter-annual Instalment Payments, containing both principal and interest, each such Instalment Payment to be in an amount equal to 4.3277316% of the original principal amount of such Note; each Instalment Payment, when paid, to be applied first to the payment of all interest accrued and unpaid on the particular Note and then to payment on account of the principal thereof;

(viii) be prepayable only as provided in Articles IV and V; and

(ix) be substantially in the form, and bear thereon the Trustee's certificate of authentication substantially in the form, set forth in Schedule B-1, with such omissions, insertions and variations as the Company may determine with the approval of the Trustee and as are not inconsistent with the provisions of this Indenture.

(c) The 9½% Notes shall:

(i) be designated "9½% Senior Secured Notes due December 1, 1985";

(ii) be limited in aggregate principal amount to \$7,700,000, and each be in a denomination of \$1,000 or more;

(iii) if issued pursuant to Section 1.03, each be dated the date of issuance thereof;

(iv) mature on December 1, 1985;

(v) each bear interest (computed as if each year consisted of 360 days and each month consisted of 30 days) on the unpaid principal amount thereof from the date thereof to maturity, whether by acceleration or otherwise, at the rate of 9½% per annum, and (to the extent lawful) on any overdue principal, premium and interest, at the rate of 10½% per annum;

(vi) each be due and payable as to interest accrued from the date thereof to September 1, 1977, to the extent then accrued and unpaid, on each Payment Date occurring after the date thereof to and including September 1, 1977;

(vii) each be due and payable on December 1, 1977 and each Payment Date thereafter to and including December 1, 1985 in 33 quarter-annual Instalment Payments, containing both principal and interest, each such Instalment Payment to be an amount equal to 4.4054395% of the original principal amount of such Note; each Instalment Payment, when paid, to be applied first to the payment of all interest accrued and unpaid on the particular Note and then to payment on account of the principal thereof;

(viii) be prepayable only as provided in Articles IV and V; and

(ix) be substantially in the form, and bear thereon the Trustee's certificate of authentication substantially in the form, set forth in Schedule B-2, with such omissions, insertions and variations as the Company may determine with the approval of the Trustee and as are not inconsistent with the provisions of this Indenture.

SECTION 1.02. The Register.

The Trustee will maintain at the Corporate Trust Office a register or registers (the "Register") suitable for the registration and registration of transfer of the Registered Notes, and shall maintain therein a record of each Registered Note, the name and address of its holder (showing separate addresses, if requested, for payments, notices and other matters), the date of each transfer, and similar information relating to each transferee, all under such rules and regulations as the Trustee may provide.

SECTION 1.03. Issuance and Authentication.

On each Closing Date, the Company may deliver to the Trustee fully executed Notes complying with the provisions of Section 1.01, which shall be authenticated and delivered by the Trustee in accordance with the written order of the Company on any day or days occurring on or after the date of delivery of this Indenture. The written order shall contain sufficient information to enable the Trustee to register the Registered Notes.

SECTION 1.04. Transfer, Exchange or Substitution of Notes.

(a) The Company shall execute, and the Trustee shall authenticate, deliver and, if requested, register, one or more new Notes ("New Notes") to effect a registration of transfer of Registered Notes, exchange or substitution of or for one or more Notes ("Old Notes"), upon compliance by the holder with Section 1.04(b). Any New Note or Notes shall be of the same tenor (except that Order Notes

may be issued in exchange or substitution for Registered Notes and Registered Notes may be issued in exchange or substitution for Order Notes), be dated the same date and be in the same aggregate principal amount as the Old Note or Notes then being transferred, exchanged or substituted for. The Trustee need not authenticate New Notes during any period beginning three days before and ending three days after a Payment Date, or beginning three days before the giving of notice of any prepayment and ending three days after the date of such prepayment.

(b) Order Notes may be transferred by endorsement and delivery. If a holder wishes to transfer any Registered Notes, or exchange or substitute for an Old Note, it shall deliver such Note (or the indemnity and security referred to below) to the Trustee, with either an instrument of transfer or a request for such exchange or substitution. The Company may also require the payment of a sum to reimburse it, or provide it with funds, for the payment of any transfer tax or similar governmental charge paid or payable in connection with the transfer, exchange or substitution. Any such request or instrument of transfer shall be in form satisfactory to the Trustee, and shall include, among other things, a statement as to the number, denominations and form (either Order or Registered) of New Notes to be issued, and if registration of the New Notes is requested, sufficient information to enable the Trustee to register them. In any case involving a destroyed, lost or stolen Note, the holder shall furnish evidence satisfactory to the Trustee of such destruction, loss or theft and, in lieu of such Note, indemnity and security reasonably satisfactory to the Company and the Trustee against loss or liability. If such holder is (i) a Purchaser or (ii) an insurance company or a bank or trust company organized under the laws of the United States or any state thereof and having a net worth in excess of \$100,000,000, its agreement to indemnify the Company and the Trustee shall be deemed to be satisfactory indemnity and security.

(c) The Trustee shall mark on each New Note the date to which interest shall have been paid on the Old Notes, and the proportionate amount of principal allocable to such New Note which shall have been paid in respect of the Old Notes. Interest and principal shall be deemed to have been paid to the extent marked on the New Note. Each New Note, when authenticated by the Trustee, shall be a valid obligation of the Company evidencing the same debt as the Old Notes (or allocable portion thereof), and entitled to the benefit and security of this Indenture to the same extent as the Old Notes.

SECTION 1.05. Execution of Notes; Effect of Authentication.

(a) The President or a Vice President of the Company shall execute each Note, and the Company's corporate seal shall be attested by its Secretary or an Assistant Secretary. If proper officers of the Company shall execute and attest a Note on the actual date of its execution and attestation, such Note shall be validly executed and attested for all purposes of this Indenture even though neither of such persons was an officer of the Company on the date of the Note or the date of its authentication.

(b) The execution by the Trustee of the certificate of authentication of a Note, and its delivery by the Trustee, shall be conclusive, and the only competent, evidence that such Note has been duly issued and is entitled to the benefits and security of this Indenture. Until such authentication and delivery, a Note shall not be valid or binding, or in any way entitled to the benefits or security hereof.

SECTION 1.06. Home Office Payment.

A home office payment agreement is an agreement between the Company and the holder of a Note (or the person for whom such holder is a nominee) to the effect contained in paragraph 4.1 of any Note Agreement. Upon the filing with the Trustee of a copy of a home office payment agreement with respect to any Note, the Trustee will make payments on such Note in accordance with such agreement.

SECTION 1.07. Trustee as Agent.

The Trustee is hereby appointed the Company's agent for the payment, registration, transfer, exchange and substitution of Notes, and to receive all notices to and demands upon the Company with

respect to the Notes or this Indenture. Notes may be presented for payment, and such notices and demands may be given or made, at the Corporate Trust Office. The Trustee will, within five days of its receipt of any notice or demand, notify the Company thereof. The Trustee's failure so to notify the Company will not, however, relieve the Company of any of its obligations hereunder or affect or impair any of the rights of or impose any liability upon the Trustee or the Noteholders.

SECTION 1.08. Holders Deemed Owners.

(a) Prior to due presentment for registration of transfer the Company and the Trustee may deem and treat the Person in whose name any Registered Note shall be registered as the owner and holder thereof for all purposes of the Note Agreements and this Indenture, and neither the Company nor the Trustee shall be affected by any notice to the contrary.

(b) The Company and the Trustee may deem and treat the holder of an Order Note as the absolute owner thereof (whether or not such Order Note shall be overdue) for all purposes, and neither the Company nor the Trustee shall be affected by any notice to the contrary.

(c) All payments in respect of any Note shall be made only to or upon the order of its holder. All such payments so made, including those made pursuant to Section 1.06, shall be valid and effectual to satisfy and discharge the liability of the Company upon such Note to the extent of the sum or sums so paid.

SECTION 1.09. Cancellation of Notes.

All Notes surrendered to the Trustee for payment in full or in connection with an exchange, transfer or substitution shall be promptly cancelled by the Trustee and returned to the Company, and no Notes shall be issued in exchange or substitution therefor except as expressly permitted hereby.

SECTION 1.10. Amortization Schedules.

Upon the issuance of each Note pursuant to Section 1.03 or 1.04, the Company shall procure, at its expense, copies of an amortization schedule with respect to such Note and shall promptly send one of such copies to the holder of such Note and one of such copies to the Trustee. The amortization schedule shall set forth the amount of each Instalment Payment, the portions thereof allocable to principal and interest, and the unpaid principal of such Note after each Instalment Payment has been made.

ARTICLE II

PARTICULAR COVENANTS OF THE COMPANY

SECTION 2.01. Payment of Notes.

The Company will punctually pay the principal of, and the premium, if any, and interest on, the Notes according to the provisions hereof and thereof.

SECTION 2.02. Corporate Existence.

The Company will keep in full effect its existence, rights and franchises as a corporation under the laws of Kentucky, and will obtain and preserve its qualification to do business as a foreign corporation in each jurisdiction in which such qualification is or shall be necessary to protect the validity and enforceability of this Indenture, the Notes or any instrument in the Trust Estate.

SECTION 2.03. Protection of Trust Estate; Payment of Taxes; Compliance With Law.

(a) The Company will from time to time execute and deliver all such supplements and amendments hereto and to any instrument included in the Trust Estate, and all such financing statements, continuation

selected by the Company, accompanied by an opinion thereon of such independent certified public accountants, or (2), if such financial statements are not so audited, certified as complete and correct by a principal financial officer of the Company;

(iii) *Audit Reports*—promptly upon receipt thereof, one copy of each other report submitted to the Company or any Principal Subsidiary by independent accountants in connection with any annual, interim or special audit made by them of the books of the Company or any Principal Subsidiary thereof;

(iv) *SEC and Other Reports*—promptly upon their becoming available one copy of each financial statement, and each report or notice dealing with any material aspect of the Company's Properties, business, prospects, profits or condition (financial or otherwise), which would be sent by publicly-held companies similar to the Company to their stockholders generally, and of each regular or periodic report and any registration statement, prospectus or written communication (other than transmittal letters) in respect thereof filed by the Company with, or received by the Company in connection therewith from, any securities exchange or the Securities Exchange Commission or any successor agency;

(v) *Notice of Default or Event of Default*—immediately upon becoming aware of the existence of any condition or event which constitutes a Default or an Event of Default, a written notice specifying the nature and period of existence thereof and what action the Company is taking and proposes to take with respect thereto;

(vi) *Compliance Certificate*—within 45 days after the end of each semi-annual fiscal period commencing with the end of the first semi-annual fiscal period in calendar year 1976, a certificate signed by the President or any Vice President and by the Treasurer or any Assistant Treasurer of the Company, stating that

(A) a review of the activities of the Company during such period and of performance under this Indenture has been made under their supervision, and

(B) the signers have reviewed the relevant terms of the Note Agreements, the Notes, this Indenture, the Project Development Agreement and the Assignment of Project Development Agreement and that, to the best of their knowledge after due investigation, no condition or event existed or exists which constitutes a Default or an Event of Default or, if any such condition or event existed or exists, specifying the nature and period of existence thereof and what action the Company has taken or proposes to take with respect thereto; and

(vii) *Requested Information*—with reasonable promptness, such other data and information as from time to time may be reasonably requested.

(b) Each set of annual financial statements delivered pursuant to Section 2.05(a)(ii) which is audited by independent certified public accountants will be accompanied by a certificate of the accountants who certify such financial statements, stating that they have reviewed this Indenture and stating further, whether, in making their audit, such accountants have become aware of any condition or event which then constitutes a Default or an Event of Default, and, if any such condition or event then exists, specifying the nature and period of existence thereof.

(c) The Company will permit the Trustee and the representatives of any institutional holder of the Notes, at the Trustee's or such holder's expense, to visit and inspect any of the Properties of the Company or any Principal Subsidiary of the Company relating to the Company's performance under such of the Operative Documents to which it is a party, to examine all their books of account, records, reports and other papers relating to the financial condition of the Company and its Principal Subsidiaries, to make copies and extracts therefrom, and to discuss their respective affairs, finances and accounts with their respective officers, employees and independent public accountants (and by this provision the Company authorizes said accountants to discuss with the Trustee and such representatives the finances and affairs of the Company and its Principal Subsidiaries) all at such reasonable times and as often as may be reasonably requested.

SECTION 2.06. Negative Covenants.

The Company will not:

(i) sell, lease, transfer, exchange or otherwise dispose of any of the Trust Estate except as expressly permitted by Article III;

(ii) obtain or carry insurance relating to the Equipment separate from that required by Section 2.11, unless the proceeds are payable to the Trustee under an endorsement;

(iii) take any action which would result in an Event of Default under subsection (d), (e) or (f) of Section 6.01;

(iv) claim any credit on, or make any deduction from, the principal, premium or interest payable on the Notes by reason of the payment of any taxes levied or assessed upon any of the Trust Estate;

(v) remove or permit to be removed any Item of Equipment from McDowell, Mingo and Wyoming Counties, West Virginia (*except* for the removal of any Item for repair or maintenance in compliance with Section 2.10(a) for a period of less than 120 days or such shorter time as may be required by the law of the jurisdiction to which any Item is so removed to continue the perfection of a security interest in such Item) without the written consent of the Trustee and without complying with Section 2.13; or

(vi) merge into or consolidate with any Person or sell all or substantially all of its assets to any Person in a single or in a series of transactions or permit any Principal Subsidiary to merge into or consolidate with any Person or sell all or substantially all of its assets to any Person in a single or in a series of transactions, *provided, however*, that if no Default shall have occurred and be continuing, the Company or any Principal Subsidiary may merge into or consolidate with any corporation or sell all or substantially all of its assets to another corporation if immediately after such merger, consolidation or sale and after giving effect thereto, no Default shall have occurred and be continuing, and the corporation which results therefrom (A) is organized under the laws of the United States or a jurisdiction thereof, (B) has a tangible net worth (valued in accordance with generally accepted accounting principles) not less than the tangible net worth of the Company or such Principal Subsidiary, as the case may be, immediately prior to such merger, consolidation or sale, and (C) in the case of any such merger, consolidation or sale involving the Company, expressly assumes in writing the due and punctual payment of the principal of and premium, if any, and interest on all of the Notes, according to their tenor, and the due and punctual performance and observance of all the covenants, provisions and obligations in the Notes, the Note Agreements, the Project Development Agreement, the Assignment of Project Development Agreement and this Indenture to be observed or performed by the Company.

SECTION 2.07. Warranty of Title; Liens.

(a) The Company hereby warrants that (i) it has good and marketable title to the Original Equipment free of all Liens except Permitted Encumbrances, (ii) it will have good and marketable title to the Future Equipment, if any, and the Additional Equipment, if any, free of all Liens except Permitted Encumbrances, (iii) this Indenture creates a valid security interest in the Company's right, title and interest in and to Original Equipment and certain rights in the Project Development Agreement which has been perfected, in each case subject only to Permitted Encumbrances, and (iv) each Indenture Supplement executed and delivered by the Company pursuant to Section 1.6 of the Note Agreements will create a valid security interest in the Company's right, title and interest in and to Future Equipment or the Additional Equipment described therein which, when perfected, shall be subject only to Permitted Encumbrances. The Company shall warrant and defend the Liens and security interests created by this Indenture against all parties whomsoever and will take all action necessary to discharge any Liens on the Equipment and the Trust Estate which are not permitted by this Indenture.

(b) If any Lien of any kind based on any claim of any kind (including, without limitation, any claim against any Person for income, franchise or other taxes, whether federal, state or otherwise) which is not the subject of a Permitted Contest shall be asserted or filed against any of the Equipment or any portion thereof or any amount payable to the Trustee by Peter White pursuant to the Project Development Agreement or the Assignment of Project Development Agreement or any amount payable to the Trustee by Duke pursuant to the Coal Sales Agreement, the Letter Agreement or the Assignment or any order (whether or not valid) of any court shall be entered with respect to any such amount by virtue of any claim of any kind against any Person, in any case so as to

(i) interfere with the due payment of such amount to the Trustee or the due application of such amount by the Trustee pursuant to any provision of this Indenture, or

(ii) subject any holder of the Notes to any obligation to refund any moneys received by it, or

(iii) result in the refusal of the Trustee to make such due application because of its good faith determination that liability might be incurred if such due application were to be made,

then (A) the Trustee shall give prompt written notice of such claim and upon receipt of notice of such claim from the Trustee, the Company will promptly use its best efforts to take such action (including, but not limited to, the payment of money) as may be necessary to prevent, or to nullify the cause or result of, such interference, such obligation or such refusal, as the case may be, and (B) if such efforts have not within 10 days after receipt of such notice prevented, or nullified the cause or result of, such interference, such obligation or such refusal, as the case may be, the Company will (1) pay directly to the Trustee a sum of money (in addition to all other amounts payable to the Trustee by Peter White pursuant to the Project Development Agreement or the Assignment of Project Development Agreement and all other amounts payable to the Trustee by Duke under or pursuant to the Coal Sales Agreement, the Letter Agreement or the Assignment) equal to the amount the payment of which to the Trustee or the due application of which by the Trustee shall have been interfered with, (2) indemnify and hold harmless the holders of the Notes from and against any obligation to refund, or any loss in refunding, any moneys received by them, and (3) indemnify and hold harmless the Trustee from and against any and all liability which may arise from applying such amount pursuant to the provisions of this Indenture.

(c) To the extent that the Company may acquire any indebtedness of Peter White or Duke, or any claim against Peter White or Duke, by way of subrogation or otherwise, as a result of the performance by the Company of any action (including the payment of money) pursuant to this Section 2.07, the Company may elect, by notice to the Trustee, to treat the amount of such indebtedness and claims as unsecured loans or advances to Peter White or Duke, as the case may be, but notwithstanding the foregoing all such indebtedness and claims are hereby absolutely and unconditionally subordinated and made fully subject in right of payment to the prior payment in full of all amounts in respect of the Notes and under the Note Agreements and this Indenture.

(d) Nothing contained in Section 2.07(b) shall be construed to require the Company to take any action with respect to any claim, or to incur any expense, or to make any payment with respect to any obligation which is incurred by the Trustee or any holder of any Note to any third party and which claim or obligation is not related to or does not arise directly or indirectly out of the transactions contemplated by the Operative Documents.

SECTION 2.08. Performance by Trustee.

If the Company shall fail to perform any of its covenants contained in this Article II, the Trustee may make advances to perform the same in its behalf. All sums so advanced shall be secured hereby prior to the Notes, with interest at the rate of 11½% per annum from the date of the advance. The Trustee will make such an advance if requested by the Requisite Holders, and if furnished with sufficient funds.

SECTION 2.09. Sufficiency of Payments.

(a) On each Payment Date the Assigned Payments then due and payable pursuant to paragraph 1(a), (b) or (c) of the Assignment and which have not been released from the lien of the Indenture pursuant to Section 4.01 will be not less than the aggregate payments due on the Notes on such Payment Date and the Assigned Payments then due and payable pursuant to paragraph 1(d) of the Assignment and which have not been released from the lien of the Indenture pursuant to Section 4.01 will not be less than the amounts of any nature whatsoever then due and payable by the Company under or pursuant to the Notes, the Note Agreements or this Indenture.

(b) On each Payment Date the payments then due and payable pursuant to Section 3(b)(i), (ii) or (iii) of the Project Development Agreement and assigned to the Trustee pursuant to the Assignment of Project Development Agreement and which have not been released from the lien of the Indenture pursuant to Section 4.01 will be not less than the aggregate payments due on the Notes on such Payment Date and the payments then due and payable pursuant to Section 3(b)(iv) of the Project Development Agreement and assigned to the Trustee pursuant to the Assignment of Project Development Agreement and which have not been released from the lien of the Indenture pursuant to Section 4.01 will not be less than the amounts of any nature whatsoever due and payable by the Company under or pursuant to the Notes, the Note Agreements, this Indenture or the Assignment of Project Development Agreement.

SECTION 2.10. Maintenance and Repair; Replacement.

(a) The Company, at its own expense, will keep and maintain, or cause to be kept and maintained, each Item of Equipment in good working order and repair and fit to be used for its intended use, ordinary wear and tear excepted, and in conformity with any applicable requirements of any governmental authority having jurisdiction over the Company or any Item of the Equipment, including all federal, state and local environmental protection laws, rules and regulations, and in conformity with the insurance requirements of Section 2.11, and will provide all maintenance and service and make all repairs necessary for such purpose. The Company's obligations under this Section 2.10 shall not be affected by the availability or sufficiency of any Net Insurance Proceeds.

(b) Subject to the provisions of Section 2.10(e), if any Item, or any Parts which were originally incorporated or installed in or attached to an Item of Equipment on the date of delivery of this Indenture (herein called "Original Parts"), or any Parts in replacement of or substitution for Original Parts, shall become worn out, lost, stolen, destroyed, damaged beyond repair or otherwise permanently rendered unfit for use, the Company, at its own expense, shall promptly replace such Item or Original Parts or Parts, or cause the same to be replaced, by a replacement Item or replacement Parts, as the case may be, which are either new or have a useful life at least equal to the remaining estimated useful life of such Item of Equipment, which are free of all liens, charges and encumbrances (except Permitted Encumbrances) and which are in as good an operating condition as, and have a value or utility at least equal to, the Item or Parts replaced assuming such replaced Item or Parts had been in the condition and repair required to be maintained by the terms hereof; *provided, however*, that the Company shall have the right to install temporary replacement Items or Parts pending completion of permanent repairs or installation of permanent replacement Items or Parts, in which event the Company shall install replacement Items or Parts meeting the requirements for replacement Items or Parts set forth in this Section 2.10(b) or shall cause such temporary replacement Items or Parts to meet such requirements as soon as reasonably possible and in any event within twelve (12) months from the date of the installation of such temporary replacement Items or Parts. All such replacement Items or Parts shall immediately, without further act, become subject to the lien of this Indenture and, in the case of replacement Parts, part of the Item of Equipment into which such replacement Parts are incorporated or installed for all purposes hereof, and all such replaced Items, Original Parts and Parts shall immediately, without further act, be released from the lien of this Indenture and title thereto shall vest in the Company, free and clear of any rights of the Trustee but otherwise without any recourse, warranty or representation on the part of the Trustee.

(c) The Company may at its expense from time to time make, or cause to be made, such alterations, modifications and additions to any Item of Equipment as the Company may deem desirable in the proper conduct of its business; *provided, however*, that no such alteration, modification or addition shall diminish the value or utility of any Item of Equipment, or impair the condition thereof, below the value, utility or condition thereof immediately prior to such alteration, modification or addition assuming such Item of Equipment was then of the value and utility and in the condition and repair required to be maintained by the terms hereof. All Parts resulting from any such alteration, modification or addition shall, without further act, become subject to the lien of this Indenture; *provided, however*, that so long as no Default or Event of Default shall have occurred and be continuing, the Company may at any time remove any Part from any Item of Equipment if (i) such Part is in addition to, and not in replacement of or substitution for, any Original Part or any Part in replacement of, or substitution for, any Original Part and (ii) such part can be removed from such Item of Equipment without diminishing or impairing the value and utility or condition and repair which such Item of Equipment would have had at such time had such alteration, modification or addition not occurred.

(d) Within 60 days of September 30, 1978 and September 30, 1982, the Company shall deliver to the Trustee and each holder of a Note an opinion of a qualified engineer appointed by the Company and acceptable to the Trustee to the effect that such engineer has examined, or caused to be examined under his supervision, the Equipment and the Company's records relating thereto and that either (i) substantially all the Equipment is capable of performing substantially as intended under normal operating conditions or (ii) listing the Items of Equipment which do not perform substantially as intended and setting forth in reasonable detail the original Capitalized Cost and the deficiencies of such Items (the "Deficient Equipment") and whether the deficiencies of the Deficient Equipment are economically susceptible of being corrected. Subject to Section 2.10(e), the Trustee may at its option by written notice to the Company require the Company to replace any Item of Deficient Equipment the deficiencies of which either (A) such engineer's certificate has stated to be not economically susceptible of correction or (B) have not been corrected within nine months after the date of such engineer's certificate.

(e) Notwithstanding anything in Section 2.10(b) or (d) to the contrary, the Company shall have no obligation to replace any Item, Original Parts or Parts in accordance with Section 2.10(b) so long as the aggregate fair market value (valued as provided in Section 3.03(a)) of all Items, Original Parts and Parts which have not become worn out, lost, stolen, destroyed, damaged beyond repair or otherwise permanently rendered unfit for use, which remain subject to the lien of this Indenture and which have not been sold pursuant to Section 3.03(b) is equal to or greater than 105% of the aggregate unpaid principal amount of the outstanding Notes as of the immediately preceding Payment Date (after giving effect to the payments made on the Notes on such Payment Date).

SECTION 2.11. Insurance.

(a) The Company will, so long as any Note is outstanding, maintain or cause to be maintained insurance of the following character:

(i) Insurance against loss by fire and lightning and insurance against risks customarily covered by the Standard Extended Coverage Endorsement, including but not limited to loss by windstorm, hail, explosion, riot (including riot attending a strike), civil commotion, aircraft, vehicles, smoke damage, and vandalism and malicious mischief in amounts sufficient to prevent the Company, the Trustee or Peter White from becoming a co-insurer of any loss under the applicable policies, but in any event in amounts not less than the aggregate Capitalized Cost of the Equipment located above ground with a maximum deductible amount of \$10,000.

(ii) Difference in conditions or All Risk Insurance in an amount of at least \$4,000,000 with respect to the Equipment.

(iii) All Risk Insurance in respect of Equipment located underground in an amount of at least \$3,000,000.

(iv) Public liability insurance (Comprehensive, Automobile and General) against claims for bodily injury, death or property damage, such insurance to afford coverage not less than \$2,000,000 per occurrence.

(v) The Company shall comply and cause Peter White and all Persons operating any Item of the Equipment to comply, with applicable workmen's compensation, disability (if any) and similar laws relating to its operations wherever located and shall maintain insurance coverage, or an adequately funded self-insurance program, to the extent required by law.

(vi) Other insurance in amounts and against risks customarily insured against by companies comparable to the Company in respect of similar equipment and in any event in at least such amounts and against such risks as are customarily maintained by the Company on similar equipment owned or operated by the Company.

(vii) Increased amounts of the above-described insurance to the extent that such increased amounts are either (i) customarily maintained by companies comparable to the Company in respect of similar equipment or (ii) maintained by the Company on similar equipment owned or operated by the Company.

(viii) War risk insurance, when any such insurance is available from the United States or any agency or instrumentality thereof, in an amount at all times not less than the full insurable value of all Items or, if such amount shall not be available, in such lesser amount as shall be available.

(b) Such insurance shall be written by companies of recognized financial standing, all policies shall name as the insured parties thereunder the Company, as the owner of the Equipment, Peter White and the Trustee, as their interests may appear, *except* that the policies carried pursuant to Sections 2.11(a)(i), (ii) and (iii) may provide that any loss in the amount of \$100,000 or less shall be payable directly to the Company. Such insurance may be obtained by the Company by endorsement on its blanket insurance policies or those of its shareholder, *provided* that such blanket policies satisfy the requirements specified in this Section 2.11, and in the case of the requirements specified in Sections 2.11(a)(i), (ii), (iii) and (iv), provide for a reserved amount thereunder with respect to the Equipment so as to assure that the required amount of such insurance will continue to be available with respect to the Equipment notwithstanding any losses with respect to other property covered by such blanket insurance.

(c) Insurance claims by reason of damage to or destruction of any part of the Equipment may be adjusted by the Company and the policies required hereunder may so provide. The Trustee shall not be responsible for any premium or required to incur any expense under any policy of insurance or to prosecute (but may do so at its option) any claim against any insurer or to contest any settlement proposed by any insurer, *provided* that the Company may prosecute any such claim or contest any such settlement and in such event the Company may bring any such prosecution or contest in the name of the Trustee, the Company or both. The Trustee will join in such prosecution or contest at the Company's request *provided* that the Company shall indemnify the Trustee against all costs, liabilities and expenses in connection with such prosecution or contest.

(d) Every such insurance policy (other than general public liability or workmen's compensation insurance policies) shall bear an endorsement in favor of the Trustee, and loss under any such policy in excess of \$100,000 shall be made payable to the Trustee, but any recoveries under any such policies received by the Trustee shall be applied by the Trustee as provided in Section 4.03. Every such insurance policy shall contain an agreement by the insurer that it waives all rights of subrogation against the Company and the Trustee, that it will give 30 days' prior written notice of suspension, cancellation, termination, modification, non-renewal or lapse of coverage to the Company and the Trustee, and that any loss thereunder shall be payable notwithstanding any (i) use of the property for purposes more hazardous than permitted by the terms of the policy, (ii) other action, inaction, breach of warranty or condition, misrepresentation or negligence of the Company or the Trustee, (iii) foreclosure or other action or proceeding taken by the Trustee pursuant to any provision of this Indenture, or (iv)

change in title or ownership of the Equipment or any Item or Items thereof. No such policy shall contain a provision relieving the issuer thereof of liability for any loss by reason of the existence of other policies of insurance covering the Item or Items against the peril involved.

(e) The Company shall deliver to the Trustee and Peter White on or before the date of delivery of this Indenture original or duplicate policies or certificates of insurers in form satisfactory to the Trustee evidencing all insurance then required to be maintained by the Company hereunder, and thereafter, within 30 days of the issuance of any additional policies or amendments or supplements to any of such policies, the Company will deliver, or cause to be delivered, the same (or certificates of the insurers under such policies evidencing the same) to the Trustee and Peter White, and the Company shall, not later than 30 days prior to the expiration of any policy, deliver certificates of the insurers evidencing the replacement thereof. So long as any note is outstanding, the Company will, within 20 days prior to each September 30 commencing in the calendar year 1977, cause to be delivered to the Trustee and Peter White a certificate of an Executive Officer of the Company (i) listing the policies of insurance then outstanding and in effect, the names of the companies issuing such insurance, the amounts and expiration date or dates of such insurance and the risk or risks covered thereby and any material changes in such insurance since the last such certificate; and (ii) stating that such insurance complies with the requirements contained in this Indenture. The Company will advise the Trustee and Peter White in writing promptly of any known default in the payment of any premium and of any other known act or omission on the part of the Company which might invalidate or render unenforceable, in whole or in part, any insurance on or with respect to the Equipment, or any Item or Items thereof. The Company will also advise the Trustee and Peter White in writing promptly of any notice or other communication (other than routine premium payment reminders) received from any such insurer by which such insurer indicates it has suspended or terminated, or may seek to terminate, any such insurance.

SECTION 2.12. Identification Marks.

To the extent practicable, the Company shall affix and maintain or cause to be affixed and maintained, so long as any Note is outstanding, in a prominent place on each Item of the Equipment and each prominent component of each such Item, a plainly legible, conspicuous plate, insignia or other identification reading:

“Subject to a security interest in favor of Girard Trust Bank, as Trustee.”

If any of such words shall at any time be defaced or destroyed, or shall become illegible, on any such Item or component Part thereof, the Company shall cause such defaced, destroyed or illegible words to be restored or replaced. The Company shall not allow any other name or names to be placed on any of the Equipment as a designation which might be interpreted as indicating a claim of ownership thereof by any Person other than the Company or a claim of a security interest therein by any Person other than the Trustee.

SECTION 2.13. Recordings; Opinions of Counsel.

(a) On or prior to the date of delivery of this Indenture and prior to each change in location (outside of McDowell, Mingo and Wyoming Counties, West Virginia) of any Item of Equipment (except for the removal of any Item for repair or maintenance in compliance with Section 2.10(a) for a period of less than 120 days or such shorter time as may be required by the law of the jurisdiction to which any Item is so removed to continue the perfection of a security interest in such Item), the Company, at its own expense, will cause all UCC financing statements and all other documents and instruments necessary to create and perfect any security interests in the Equipment and the Assignment in favor of the Trustee to be filed in all necessary places as required by law or requested by the Trustee. The Company will further duly file and record or deposit as aforesaid all periodic continuation statements with respect to all UCC financing statement filings as and when required and refile and re-record or re-deposit any of the foregoing as may be necessary.

(b) The Company will promptly furnish to the Trustee and the holders of the Notes annually after the execution thereof (but not later than September 30 of each year), commencing with the year 1977, certificates or other evidences of such filings and recordings or deposits and refilings and re-recordings or re-deposits and an opinion of counsel satisfactory to the Trustee (i) to the effect that such filings and recordings (or re-filings and re-recordations) have been duly made and that all other action has been taken, as is necessary to comply with the requirements of Section 2.13(a), or (ii) that no such additional filings, recordings, deposits, re-filings, re-recordings, re-deposits or other actions are necessary to comply with the requirements of Section 2.13(a). In addition, the Company shall do and perform any other acts and will execute, acknowledge, deliver, file, register, deposit and record (and will re-file, re-deposit and re-record whenever necessary) any and all further instruments required by law or reasonably requested by the Trustee for the purpose of the proper protection (to the satisfaction of the Trustee and its counsel) of its security interest in the Equipment and the Assignment and its rights under this Indenture. The Company shall promptly furnish to the Trustee evidences of any of the foregoing.

SECTION 2.14. Use; Inspection; Information.

(a) The Company will permit each Item of Equipment to be used only for lawful business purposes by qualified personnel and for a purpose for which such Item of Equipment was designed. The Company will operate or cause to be operated each Item of Equipment in accordance with sound mining practice in similar coal fields in the State of West Virginia and in compliance with the insurance requirements of Section 2.11.

(b) The Company shall allow or cause to be allowed the Trustee and the holders or their respective authorized representatives, at their sole cost and expense, at all reasonable times, on reasonable prior notice and subject to all safety and operating regulations of the Company and Peter White, to inspect the Items of Equipment and the books and records of the Company relative thereto, but neither the Trustee nor the holders shall have any duty to make any such inspection or shall incur any liability by reason of not making same.

(c) The Company shall promptly furnish the Trustee and the holders from time to time such information as any such party shall reasonably request concerning the Items of Equipment including, without limitation, information concerning their condition, maintenance, use and location. To the extent that such information consists of information contained in or derivable from records kept (or which in accordance with good business practice should be kept) by the Company, it shall be furnished without cost to the person requesting the information. Otherwise, unless an Event of Default shall have occurred and be continuing, the person requesting the information shall compensate the Company for its reasonable costs in assembling such information.

(d) Within the six months preceding September 30, 1978 and September 30 of each second year thereafter, the Company will at its own expense cause a physical inspection to be made of each Item of Equipment and will prepare and deliver to the Trustee and the holders a brief report concerning the manner of such inspection (including identification of the Person or Persons making it and the date or dates on which it was made and if it was not possible to inspect any Item of Equipment the reasons therefor), the condition of each such Item of Equipment, its location, the legibility of the marking required by Section 2.12 and such further information as the Trustee or any holder may reasonably request.

SECTION 2.15. Acquisition of Notes.

Neither the Company nor any Subsidiary nor any Affiliate will, directly or indirectly, acquire or make any offer to acquire any Notes unless the Company or such Subsidiary or Affiliate has offered to acquire Notes, pro rata, from all holders of the Notes and upon the same terms. In case the Company acquires any Notes, such Notes shall thereafter be cancelled and no Notes shall be issued in substitution therefor.

ARTICLE III
POSSESSION, USE AND RELEASE

SECTION 3.01. Collection of Money.

The Trustee may demand payment or delivery of and shall receive and collect, directly and without the intervention or assistance of any fiscal agent or other intermediary, all money and other property payable to or receivable by the Trustee pursuant or with respect to any instrument or property included in the Trust Estate, or pursuant to this Indenture. The Trustee shall hold all such money and property received by it as part of the Trust Estate, and shall apply it as provided in this Indenture. If any default occurs in the making of any payment or performance under the Assignment, the Project Development Agreement or the Assignment of Project Development Agreement, or under any other instrument included in the Trust Estate, the Trustee may, and upon the request of the Requisite Holders shall, to the extent it may have the power to do so under the Operative Documents or under applicable law, take such action as may be appropriate to enforce such payment or performance, including the institution and prosecution of appropriate Proceedings. Any such action by the Trustee shall be without prejudice to any right to claim a Default or Event of Default under this Indenture, and to proceed thereafter as provided in Article VI.

SECTION 3.02. Release of Property.

If no Default hereunder has occurred and is continuing the Trustee may, and when required by provisions of this Indenture or any instrument included in the Trust Estate shall, execute and deliver instruments to release property from the lien of this Indenture, or convey its interest in the same in a manner and under circumstances which are not inconsistent with the provisions of this Indenture, including releases of Parts which have been replaced pursuant to Section 2.10(b) and release of Items which have been sold by the Company upon compliance with Section 3.03. No party relying upon an instrument executed by the Trustee as provided in this Article III shall be bound to ascertain the Trustee's authority, inquire into the satisfaction of any conditions precedent or see to the application of any moneys.

SECTION 3.03. Sale of Items.

(a) If no Default has occurred and is continuing, the Company may sell any Item of Equipment at any time after the Trustee shall have received 10 days' prior written notice from an Executive Officer of the Company of the Company's intention to sell such Item, and in accordance with Section 3.02 the Trustee shall execute such releases (i) in the form of Schedule D hereto or (ii) as shall be necessary, in an opinion of counsel addressed to the Trustee, as the case may be, to release such Item from the lien of this Indenture, if immediately after such sale and after giving effect thereto, the fair market value of all Items then subject to the lien of this Indenture and being used by Peter White pursuant to the Project Development Agreement which have not been sold (valued by an independent appraiser, who shall be a member of the American Institute of Appraisers, within 180 days prior to such sale) is equal to or greater than 105% of the aggregate unpaid principal amount of the outstanding Notes as of the Payment Date immediately preceding the date of such sale (after giving effect to the payments made on the Notes on such Payment Date).

(b) Notwithstanding anything in Section 3.03(a) to the contrary, if no Default has occurred and is continuing, the Company may sell Items of Equipment having an aggregate fair market value (determined on the basis of what a willing buyer would pay a willing seller of such Items in an arm's-length transaction) not in excess of \$500,000 in each annual period commencing three years after the date of delivery of this Indenture, *provided, however*, that upon any sale of 9½% Notes as contemplated by the Note Agreements, such \$500,000 amount shall be automatically increased by an amount equal to one-thirty-sixth of the original aggregate principal amount of such 9½% Notes and, *provided, further*, that immediately after such sale and after giving effect thereto, the fair market value of all Items then subject to the lien of his Indenture and being used by Peter White pursuant to the Project Development

Agreement which have not been sold (valued as provided in this subsection) is equal to or greater than 105% of the aggregate unpaid principal amount of the outstanding Notes as of the Payment Date immediately preceding the date of such sale (after giving effect to the payments made on the Notes on such Payment Date), and *provided further* that the Trustee shall not be required to execute a release for such Items unless such fair market value has been determined as provided in Section 3.03(a).

SECTION 3.04. Amendments to Instruments.

In addition to amendments and supplements required by this Indenture, the Trustee may, without the consent of any holder of the Notes, enter into or consent to any amendment or supplement to any instrument included in the Trust Estate which is permitted by paragraph 7 of the Assignment or paragraph 7 of the Assignment of Project Development Agreement or which is for the purpose of increasing any party's obligations or duties owing to the Trustee or for any of the purposes specified in Sections 8.02(a), (b), (c), (d) and (e) which permit the Trustee to enter into indentures supplemental hereto, *provided*, that without the consent of the Requisite Holders, (i) the provisions of no instrument included in the Trust Estate shall be amended, supplemented or waived so as to adversely affect the holders of the Notes, and (ii) there shall be no such amendment, modification, supplement or waiver which changes the time or changes (except as otherwise contemplated in the Operative Documents) the amount of any payment to be made to or for the benefit of the holders of the Notes or which affects the character of the obligations of the Company and Duke to make any such payment. The Trustee may, in its discretion, decline to enter into or consent to any such supplement or amendment or give such consent if the Trustee's own rights, duties or immunities shall be affected.

SECTION 3.05. Opinion of Counsel.

The Trustee shall be entitled to receive at least 10 days' notice of any action to be taken pursuant to this Article III, other than Sections 3.01 and 3.03(b), with copies of any instruments involved. The Trustee shall also be entitled to receive an opinion of counsel, in form and substance satisfactory to the Trustee, stating the legal effect of any such action, outlining the steps required to complete same, and concluding that such action will not materially and adversely impair the security for the Notes or the rights of the holders of the Notes in contravention of the provisions of this Indenture.

ARTICLE IV

APPLICATION OF MONEY

SECTION 4.01. Application of Assigned Payments.

If no Default shall be continuing, Assigned Payments received by the Trustee shall be first credited by the Trustee to payment of the sums then due and payable pursuant to the Assignment of Project Development Agreement and then shall be applied by the Trustee forthwith to the payment of all interest (including penalties) and Instalment Payments then payable on or in respect of the Notes and any other amount then due and payable under the Note Agreements or this Indenture, and any balance shall be remitted to or upon the order of the Company, *provided, however*, that upon the deposit by the Company with the Trustee of immediately available funds pursuant to the promise to pay contained in the Notes before 9:30 A.M. Philadelphia time on each Payment Date in an amount equal to all interest and Instalment Payments then payable on or in respect of the Notes and any other amount then due and payable under the Note Agreements or this Indenture, such funds shall be dealt with by the Trustee as if they constituted an Assigned Payment and any Assigned Payment which would otherwise be due on such Payment Date shall be automatically released from the lien of this Indenture.

SECTION 4.02. Lien Offsets.

Payments received by the Trustee pursuant to paragraph 8(b) of the Assignment or pursuant to Section 2.07(b) hereof shall be applied in the same manner as the Trustee would have applied the moneys

(the "Encumbered Proceeds") whose payment or application was interfered with. To the extent that it lawfully may, the Trustee will pay any balance of Encumbered Proceeds held by it (a), in the case of payments received pursuant to Section 2.07(b), to the Company, or (b), in the case of payments received pursuant to paragraph 8(b) of the Assignment, to Duke, but in either case only if (i) funds sufficient for the purpose shall have been applied in the manner in which such Encumbered Proceeds would have been applied but for the interference, and (ii) no Default is continuing.

SECTION 4.03. Insurance.

If there is no continuing Default, the Trustee will pay or make reimbursement for the expense of repairing any damage to the Equipment or any Item or component part thereof resulting from any event which results in an insurance settlement with respect to the Equipment or any Item or component part thereof from and to the extent of the Net Insurance Proceeds received by the Trustee in connection therewith. Any such payments or reimbursements shall be made to the Company, or as it may direct, in an amount not more than the excess of the total amounts paid or obligations incurred in connection with such repair over the amounts previously paid or reimbursed by the Trustee. Such payments or reimbursements shall be made upon receipt by the Trustee of a request therefor, signed by an Executive Officer of the Company, certifying in reasonable detail as to the satisfaction of the conditions for such payment or reimbursement and specifying the Person or Persons to whom such amounts are to be paid. If there is no continuing Default and after receipt of satisfactory evidence of completion of such repair, any balance of any such Net Insurance Proceeds remaining after all such payments and reimbursements shall be paid over to, or retained by, the Company. If the cost of such repair shall exceed the amount of the Net Insurance Proceeds in connection therewith, the deficiency shall be paid by the Company.

SECTION 4.04. Force Majeure Prepayment.

In the event of the occurrence of either of the following:

(a) Duke shall be required to divest itself of the Company's interest in the mining operations at the Mines by order of regulatory authorities or otherwise, and such order shall have the effect of preventing compliance by Duke or Peter White (or any operator substituted for Peter White pursuant to Article VIII of the Coal Sales Agreement) with the Coal Sales Agreement; or

(b) The mining of coal at the Mines shall be prevented by Force Majeure, as defined in the Coal Sales Agreement, for a continuous period of 6 months;

the Company shall have the right to prepay all, but not less than all, of the Notes then outstanding on any Payment Date occurring at least 60 days after the Trustee shall have received written notice of the Company's intention to prepay the Notes, at a price equal to 100% of the unpaid principal amount thereof.

ARTICLE V

PREPAYMENT OF NOTES

SECTION 5.01. General.

Notes shall be prepaid only to the extent expressly permitted by this Indenture. Prepayments pursuant to Article IV shall be made as provided in this Article V. Any prepayment of Notes shall be in addition to, and shall be made only after payment of, any interest or Instalment Payments on such Notes, therein specified to be due and payable on the date fixed for such prepayment.

SECTION 5.02. Notice; Deposit.

(a) The Trustee shall notify the holders of the Notes to be prepaid not less than 20 nor more than 45 days prior to any prepayment. The notice shall state the date fixed for prepayment (which date shall be a Payment Date) and the principal amount of each Note to be prepaid.

(b) The moneys necessary to make any prepayment shall be deposited with the Trustee prior to 10:00 A.M., Philadelphia time, on the date fixed for such prepayment. If such deposit is made, interest on the portion of any Note designated for prepayment shall cease on the date fixed for prepayment.

ARTICLE VI

EVENTS OF DEFAULT AND REMEDIES

SECTION 6.01. Events of Default.

Any of the following occurrences or acts shall constitute an Event of Default under this Indenture:

(a) default shall be made in the payment of (i) any interest payment or Instalment Payment on any Note when and as the same shall become due and payable, and such default shall have continued for a period of 10 days, or (ii) any other payment of the principal of or premium on any Note, when and as the same shall become due and payable, whether at maturity or by acceleration or as part of any prepayment or otherwise; or

(b) default shall be made by the Company in the due observance of any provision of Section 2.02, 2.06, 2.07, 2.09 or 2.11; or

(c) the Company shall be in default in the due observance or performance of any other provision of this Indenture, and the Company shall have failed to give notice of such default to the Trustee within 30 days after it shall first become known to any officer of the Company or such default shall have continued for a period of at least 30 days after such notice shall have been given to the Trustee; or

(d) the validity or effectiveness of any instrument included in the Trust Estate or of its assignment to the Trustee shall be materially impaired, or if any such instrument shall be amended, hypothecated, subordinated, terminated or discharged, or if any Person shall be released from any of its covenants or obligations under any such instrument, in each case except as may be expressly permitted hereby or thereby; or

(e) any Lien shall be created on, or extend to or otherwise arise upon or burden the Trust Estate or any part thereof or any interest therein or the revenues, rents, issues or profits thereof, other than Permitted Encumbrances; or

(f) this Indenture shall not constitute a valid security interest in the Trust Estate except for the Assignment, or if the Assignment shall not constitute a valid security interest in, and a valid present assignment of the Assigned Payments, in each case subject only to Permitted Encumbrances, or if such security interests shall not be perfected; or

(g) any representation or warranty of the Company, Duke or Peter White made in this Indenture, the Assignment, the Project Development Agreement, the Assignment of the Project Development Agreement or the Note Agreements or in any certificate or other writing delivered to the Trustee or any Purchaser pursuant hereto or thereto, shall prove to be misleading or incorrect in any material respect as of the time when the same shall have been made; or

(h) default shall be made by Duke in the due observance of any provision of paragraph 8 of the Assignment or by Peter White in the due observance of any provision of paragraph 8 of the Assignment of Project Development Agreement or an Event of Default (as defined in the Project Development Agreement) of the nature specified in clause (i) or (ii) of Section 13(a) of the Project Development Agreement shall occur or any other such Event of Default shall occur which such other Event of Default has the effect of materially impairing the value of the Trust Estate; or

(i) Duke or Peter White shall be in default in the due observance or performance of any other provision of the Assignment or the Assignment of Project Development Agreement, or of any other provision of the Coal Sales Agreement, the Letter Agreement or the Project Development Agreement which default has the effect of materially impairing the value of the Trust Estate, and such default shall have continued for a period of 30 days after it shall first become known to any officer of Duke or Peter White, as the case may be; or

(j) the Company or Duke, or any Principal Subsidiary thereof, shall file a petition in bankruptcy or for reorganization or for an arrangement or any composition, readjustment, liquidation, dissolution or similar relief pursuant to the Bankruptcy Act or under any similar present or future federal law or the law of any other jurisdiction, or shall be adjudicated a bankrupt or become insolvent, or shall make an assignment for the benefit of its creditors, or shall admit in writing its inability to pay its debts generally as they become due, or shall take any corporate action in furtherance of any of the foregoing, or if any of the Property of any of them shall be sequestered by court order as a result of any of the foregoing and such order remains in effect for more than 30 days; or

(k) a petition or answer shall be filed proposing the adjudication of the Company or Duke, or any Principal Subsidiary thereof, as a bankrupt or its reorganization or arrangement, or any composition, readjustment, liquidation, dissolution or similar relief with respect to it pursuant to the Bankruptcy Act or under any similar present or future federal law or the law of any other jurisdiction, and the Company or Duke, or any Principal Subsidiary thereof, as the case may be, shall consent to the filing thereof, or such petition or answer shall not be discharged or denied within 60 days after the filing thereof; or

(l) a receiver, trustee or liquidator (or other similar official) of the Company or Duke, or any Principal Subsidiary thereof, or of any of the Property of any of them or of the Trust Estate or any portion thereof shall be appointed and shall not be discharged within 60 days thereafter, or if any of such Persons shall consent to or acquiesce in such appointment; or

(m) a final judgment or judgments for the payment of money aggregating in excess of \$25,000 is or are outstanding against the Company or any Principal Subsidiary thereof and any one of such judgments has been outstanding for more than 30 days from the date of its entry and has not been discharged in full or stayed.

SECTION 6.02. Remedies.

(a) If an Event of Default shall be continuing, the Trustee may, and upon the request of the Requisite Holders shall, do one or more of the following:

(i) give notice to the Company declaring (A) the entire unpaid principal amount of the Notes, (B) all interest accrued and unpaid thereon, and (C) all other sums payable under this Indenture, to be forthwith due and payable, and demanding that the same be paid, and thereupon all such amounts shall be forthwith due and payable, together with all costs and expenses of collection, notwithstanding any contrary provision contained in this Indenture or any Note;

(ii) institute Proceedings for the collection of all amounts due and payable on the Notes, and under this Indenture, enforce any judgment obtained, and collect moneys adjudged due from the Trust Estate;

(iii) sell all and singular the Trust Estate or any portion thereof or rights or interest therein, at one or more public or private sales called and conducted in any manner permitted by law;

(iv) institute Proceedings from time to time for the complete or partial foreclosure of this Indenture; and

(v) take any other appropriate action (including the institution of Proceedings) to protect and enforce the rights and remedies of the Trustee hereunder, or under or in respect of any instrument included in the Trust Estate, or otherwise.

(b) The unpaid principal amount of the Notes, all interest accrued and unpaid thereon, and all other sums payable under this Indenture shall be forthwith due and payable upon a Sale whether or not declared to be so pursuant to Section 6.02(a)(i), and notwithstanding any provision to the contrary contained in this Indenture or in any Note. All earnings, revenues, proceeds, rents, issues, profits and income derived pursuant to Section 6.02(a)(v) (after deducting costs and expenses of operation and other proper charges), all proceeds of any Sale and all other money and property received or recovered by the Trustee pursuant to this Section 6.02 shall become part of the Trust Estate. The Trustee shall be entitled to exercise any remedies under this Article VI personally or by its agents or attorneys.

(c) Notwithstanding anything in this Indenture to the contrary, neither the Trustee nor any holder shall institute any Proceedings against Peter White or its Properties, whether under the Assignment or the Assignment of Project Development Agreement or for the foreclosure of this Indenture with respect to the Project Development Agreement or otherwise, unless and until the Trustee or such holder, as the case may be, shall have exercised and exhausted all other commercially reasonable remedies (whether legal, equitable, administrative or otherwise), including the institution of all necessary or appropriate proceedings and the diligent prosecution thereof to final judgment, the diligent prosecution of all available appeals from any adverse judgment obtained and the taking of all steps necessary or appropriate to collect upon any judgment obtained, including levy against and sale of all available assets and including without limitation upon the foregoing those remedies which it has against the Company under the Notes, the Note Agreements or this Indenture and which it has against Duke under the Assignment and which it may otherwise have against the Company or Duke, for the collection of the indebtedness evidenced by the Notes, secured by this Indenture or otherwise payable to the Trustee or such holder. Whenever it shall be necessary to determine for the purposes of this section whether or not any remedy, including the prosecution of one or more appeals from any adverse judgment, is commercially reasonable, such determination shall be made by independent counsel reasonably acceptable to Peter White and the Person proposing to institute Proceedings against Peter White or its Properties. Said determination shall be made upon the basis of the likelihood (i) of a successful resolution in favor of the proponent of such remedy of the issues of fact and of law central thereto and (ii) of recovery of damages in an amount in excess of the probable expenses of prosecuting such remedy.

SECTION 6.03. Sale of Trust Estate.

(a) The power to effect any Sale shall not be exhausted by any one or more Sales as to any portion of the Trust Estate remaining unsold, but shall continue unimpaired until the entire Trust Estate shall have been sold or all amounts payable on the Notes and under this Indenture shall have been paid. The Trustee may from time to time postpone any Sale by public announcement made at the time and place of such Sale. The Trustee hereby expressly waives its rights to any amount fixed by law as compensation for any Sale.

(b) The Trustee may bid for and acquire any portion of the Trust Estate in connection with a Sale thereof, and may pay the purchase price by crediting upon the Notes or other amounts secured by this Indenture the net proceeds of such Sale after deducting the costs, charges and expenses incurred by the Trustee in connection therewith. The Notes need not be produced in order to complete any such Sale, or in order to cause there to be credited on the Notes their pro rata share of the net proceeds. The Trustee may deal with any property so acquired in any manner permitted by law.

(c) The Trustee shall execute and deliver an appropriate bill of sale or other instrument of transfer, conveyance or assignment transferring its interest in any portion of the Trust Estate in connection with a Sale thereof. In addition, the Trustee is hereby irrevocably appointed the agent and attorney-in-fact of the Company to transfer and convey its interest in any portion of the Trust Estate in connection with a Sale thereof. As such, the Trustee may take all action necessary to effect such Sale including, without limitation, executing and delivering, in the name and on the behalf of the Company, bills of sale or other instruments of transfer, conveyance or assignment.

SECTION 6.04. Action on Notes.

(a) The Trustee may seek and recover judgment for all amounts due and payable on the Notes and under this Indenture either before, after or during the pendency of any other Proceedings or action to obtain relief under or with respect to this Indenture (including, without limitation, any Sale of any portion of the Trust Estate). The Trustee's right to seek and recover any such judgment shall not be affected by the obtaining of any such other relief. The Trustee shall continue to be entitled to enforce payment of and to seek and recover judgment for any amounts remaining due and payable on the Notes and under this Indenture after the application of any proceeds of a Sale and after any other distribution of the Trust Estate as provided in this Indenture.

(b) The Trustee shall not be entitled to recover from all sources more than all amounts due and payable on the Notes and under this Indenture. The Trustee shall be entitled to retain possession and control of all of the Trust Estate notwithstanding the appointment of any receiver, trustee, liquidator or other similar official with respect to the Company or with respect to any portion of the Trust Estate.

(c) Neither the lien of this Indenture nor any rights or remedies of the Trustee or the holders of the Notes hereunder shall be impaired in any way by the recovery of any judgment by the Trustee against the Company or by the levy of an execution under such judgment upon any portion of the Trust Estate.

SECTION 6.05. Distribution of Trust Estate.

(a) The Trust Estate, when distributed from time to time, shall be applied by the Trustee as follows:

First: to the payment of all costs, expenses, liabilities and compensation of the Trustee (including the reasonable fees and expenses of its agents and independent counsel) incurred or accrued in connection with any Proceedings brought by the Trustee or with the maintenance, Sale or other disposition of the Trust Estate, including all taxes, assessments and other charges paid by the Trustee with respect thereto.

Second: to the repayment of all advances made under this Indenture by the Trustee, or by any holder or holders of the Notes, with interest at the lesser of 11½% per annum or the highest rate permitted by applicable law.

Third: to the payment of all amounts then due and payable on the Notes (whether in respect of principal, interest or premium), ratably in accordance with the aggregate of such amounts due and payable on each Note, without preference, priority or distinction as between any Note or as between principal, interest or premium.

Fourth: to the payment of all other sums due and payable under this Indenture or on the Notes.

Fifth: to the payment of any surplus to the Company or any other Person or Persons legally entitled thereto.

(b) Each payment made pursuant to Section 6.05(a) *Third* shall be made upon the presentation of the Note being paid against notation of the payment on such Note in the case of partial payment or cancellation thereof in the case of payment in whole, as the case may be.

SECTION 6.06. Waiver of Various Rights.

(a) The Company hereby waives service of process and agrees to appear voluntarily in any Proceeding brought under or in respect of this Indenture. The Company will consent to the entry of a judgment in any such Proceeding for all amounts due and payable on the Notes and all amounts due and payable under this Indenture, and for any other relief to which the Trustee may be entitled. The Company will also consent to the appointment of one or more receivers of all or a portion of the Trust Estate upon the request of the Trustee.

(b) The Company hereby waives and agrees that it will never seek or derive any benefit or advantage from any of the following, whether now existing or hereafter in effect:

- (i) any stay, extension, moratorium or other similar law;
- (ii) any law providing for the valuation or appraisal of any portion of the Trust Estate in connection with a Sale thereof;
- (iii) any law allowing for the redemption of any portion of the Trust Estate after a Sale thereof; and
- (iv) any right to have any portion of the Trust Estate or other security for the Notes marshalled.

The Company covenants not to hinder, delay or impede the exercise of any right or remedy under or in respect of this Indenture, and agrees to suffer and permit its exercise as though no laws or rights of the character listed above were in effect.

SECTION 6.07. Persons Entitled to Enforce.

(a) No holder of any Note may institute any Proceedings to enforce any right or remedy under this Indenture unless and until:

- (i) an Event of Default of which the Trustee has notice is continuing;
- (ii) the Requisite Holders shall have requested the Trustee to institute such Proceedings in the Trustee's name and as trustee of an express trust;
- (iii) the Trustee shall have been offered security and indemnity satisfactory to it against the costs, expenses and liabilities to be incurred in connection with such Proceedings; and
- (iv) the Trustee shall have neglected or refused to institute such Proceedings within 30 days after the foregoing three conditions shall have been met.

The foregoing matters are conditions precedent to the institution of such Proceedings by the holder of any Note. The enforcement of any right or remedy by the holder of any Note as permitted hereby shall be for the equal and ratable benefit of the holders of all of the Notes. Each holder of any Note agrees, by its purchase or acceptance of such Note, that it shall not have any right to affect, disturb or prejudice the rights and remedies of any other holder of Notes or to enforce any right or remedy *except* as provided in this Section 6.07. Nothing in this Indenture or in the Notes contained shall affect the obligation of the Company, which is absolute and unconditional, to pay the principal of, premium, if any, and interest on the Notes in the manner and at the time and place therein respectively expressed, or shall affect the right of the holders of the Notes, by a Proceeding upon the promise to pay therein contained, to enforce such payment without reference to or without consent of the Trustee or any other of the holders of the Notes.

(b) Each holder of any Note, by its purchase or acceptance thereof, agrees and acknowledges that the Trustee is irrevocably appointed the agent and attorney-in-fact of the holders from time to time of the Notes, with authority to do and perform any and all acts as the Trustee may deem necessary or advisable for the allowance of any claim of the holder of any Note against the Company or the Trust Estate in any Proceeding, including, without limitation, making and filing any proof of debt, amendment to proof of debt, petition or document, executing any other papers or documents, and receiving payment on account of such claim (*except* to the extent that such holder shall have filed an individual claim in such Proceeding on its own behalf). The Trustee may take any such action in the names and on behalf of the holders of the Notes, either respectively or as a class, and may do so whether or not there has been any default in the payment of any interest or principal on the Notes. Nothing in this Indenture, however, shall authorize the Trustee to accept or consent to any plan of composition, arrangement or reorganization on behalf of the holder of any Note, or to waive or adversely affect in any way any right or remedy of the holder of any Note, whether or not the Trustee may be entitled to do so under any present or future law.

(c) The Trustee may institute any Proceeding under or in respect of this Indenture without possessing or producing any Note. The Trustee shall institute all such Proceedings in its name as trustee of an express trust, *except* as otherwise provided in Article VII, without the necessity of joining any holder as a party.

SECTION 6.08. Waiver of Events of Default.

(a) The Trustee shall waive any Event of Default upon the request of the Requisite Holders, unless such waiver would be prohibited by Section 6.08(b).

(b) Without the consent of the Requisite Holders, the Trustee shall waive no Event of Default if another Event of Default is then continuing, unless such other Event of Default would not have existed but for an acceleration of the Notes arising out of the Event of Default to be waived, or if such waiver would excuse the due observance or performance of the provisions of Section 2.06 or 2.09. Notwithstanding the foregoing sentence, no Event of Default under Section 6.01(h) shall be waived without the consent of the Requisite Holders.

(c) Any acceleration declared or otherwise effectuated pursuant to Section 6.02 shall be deemed rescinded and annulled upon the waiver, as provided in this Section 6.08, of the Event of Default giving rise thereto. The Trustee and the holders of the Notes shall be restored to their former positions and rights under this Indenture upon the waiver of any Event of Default or upon the discontinuance or abandonment of any Proceeding under or in respect of this Indenture. No waiver shall extend to or affect any subsequent Default or Event of Default.

SECTION 6.09. Rights Cumulative.

All rights and remedies from time to time conferred upon or reserved to the Trustee and the holders of the Notes are cumulative, and none is intended to be exclusive of any other. The failure of the Trustee or the holder of any Note to insist upon the strict observance or performance of any provision of this Indenture, or to exercise any right or remedy, shall not be construed as a waiver or relinquishment of such provision and shall not impair such right or remedy. Every right and remedy under or in respect of this Indenture may be exercised from time to time as often as may be deemed expedient.

SECTION 6.10. Involvement of Holders.

The Trustee shall promptly notify the holders of the Notes as to the occurrence, the curing or the waiver of any Event of Default of which it has actual knowledge. The Requisite Holders shall have the right, by instruments delivered to the Trustee, to direct the time, method, manner and place of enforcing any right or remedy under or in respect of this Indenture, subject to the provisions of this Indenture with respect to indemnification. If the Trustee receives no such instrument, the Trustee may proceed as it sees fit.

SECTION 6.11. Applicable Law.

The rights, remedies and powers provided by this Article VI may be exercised only to the extent permitted by applicable law. All provisions of this Article VI are intended to be subject to applicable mandatory provisions of law, and to be limited to the extent necessary so that they will not render this Indenture invalid or unenforceable.

ARTICLE VII

THE TRUSTEE

SECTION 7.01. Acceptance of Trusts; Accountability of Trustee.

(a) The Trustee accepts the trusts hereunder and agrees to perform its required duties in accordance with the provisions of this Indenture. The Trustee shall have the right, power and authority to do any

and all things, not inconsistent with the express provisions of this Indenture, in order to enforce the provisions hereof, take any action with respect to an Event of Default, institute, appear in or defend any Proceeding, or protect the interests of the holders of the Notes. If no Event of Default shall be continuing, the Trustee shall be responsible for the performance of only such duties as are specifically set forth in this Indenture and no implied covenants or obligations shall be read into this Indenture against the Trustee. If any Event of Default shall be continuing, the Trustee shall be responsible for exercising such of its rights and powers hereunder with such degree of skill and care as a prudent trustee would use or exercise under the circumstances in the conduct of fiduciary responsibilities. The Trustee shall not be answerable or accountable under any circumstances, *except* for its own bad faith, wilful misconduct or negligence (*provided, however*, that the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Requisite Holders relating to the time, method and place of conducting any Proceeding for any remedy available to the Trustee, or any trust or power conferred upon the Trustee under this Indenture). The Trustee shall be under no obligation to take any action under or in respect of this Indenture or with respect to the Trust Estate, whether on its own or another's motion, which, in its opinion, shall be likely to involve expense or liability, unless one or more of the holders of the Notes shall furnish indemnity, deemed reasonable by the Trustee, against liability and expense to the Trustee. The Trustee may become the holder or pledgee of Notes in any capacity, with the same rights which it would have if it were not the Trustee hereunder. The Trustee shall be secured hereunder prior to the Notes for its compensation and expenses referred to in Section 7.01(b) and for its expenses referred to in Article III. Any such compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust.

(b) The Trustee shall be entitled to, and the Company hereby expressly agrees to provide, reimbursement for the expenses, disbursements and advances incurred or made by it as trustee hereunder (including the reasonable compensation and the expenses and disbursements of its counsel and agents). The Trustee shall also be entitled to, and the Company hereby expressly agrees to provide, compensation at the rates heretofore agreed with the Company for all services rendered by it hereunder in receiving and disbursing (as provided in Article IV) moneys payable pursuant to the instruments included in the Trust Estate, and compensation at reasonable rates for any other services rendered or action taken by the Trustee hereunder including those in connection with an Event of Default, all without liability or expense of any nature whatsoever to the holders of the outstanding Notes or the Trust Estate.

(c) The Trustee shall incur no liability to anyone in acting upon any signature, instrument, notice, resolution, request, consent, order, certificate, report, opinion, note or other document or paper believed by it to be genuine. In the administration of the trusts hereunder, the Trustee may act directly or through its agents or attorneys and shall not be responsible for the act or neglect of agents or attorneys appointed by it with due care. The Trustee may consult with counsel, appraisers, engineers, accountants and other skilled persons of its choosing, and shall not be liable for anything done, suffered or omitted in good faith in accordance with the advice of any of such Persons.

(d) The recitals and statements in this Indenture, the instruments included in the Trust Estate and in the Notes (*except* for the Trustee's certificate of authentication on the Notes) shall be taken as statements by the party or parties thereto (other than the Trustee), and shall not be considered as made by, or as imposing any obligation or liability upon, the Trustee. The Trustee shall not be held responsible for the value of the Trust Estate or the title of the Company therein or for the sufficiency, legality or validity of this Indenture, the Notes, any instrument included in the Trust Estate or any instrument of further assurance. No representation or warranty respecting the rights or remedies of the holders of the Notes or the interest of the Company in, or the condition of, the Trust Estate, or the sufficiency of the security for the Notes, is made or implied by the Trustee's execution of this Indenture or the Trustee's authentication and delivery of any Note.

(e) Whenever in the administration of the trusts hereunder the Trustee shall deem it necessary or desirable that a matter be proved or established, such matter (unless other evidence in respect thereof shall be specifically prescribed herein) may be deemed to be conclusively proved and established by a certificate of a party to any instrument included in the Trust Estate purporting to be signed by an

Executive Officer of such party and delivered to the Trustee. Such certificate shall be full warrant to the Trustee for any action taken, suffered or omitted on the faith thereof, but in its discretion the Trustee may require and accept, in lieu thereof, such other evidence of such matter as it deems reasonable. In the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates and opinions furnished to it and conforming to the requirements of this Indenture.

(f) The Trustee shall have no duty to see to or give notice with respect to any required filing, registration, recording, refiling, reregistration or re-recording in respect of this Indenture or any instrument included in the Trust Estate or to the payment of any fees, charges or taxes in connection therewith except any filing, registration, recording, refiling, reregistration or payment referred to in any opinion of counsel received by the Trustee. In addition, the Trustee shall have no duty in respect of any tax or assessment or other governmental charge which may be levied or assessed on the Trust Estate or any portion thereof or against the Company. The Trustee shall be under no obligation to see to the payment or discharge of any Lien on the Trust Estate (other than the lien of this Indenture, and then only to the extent herein provided, and any Lien created or incurred by the Trustee in its individual capacity), or to see to the payment of any obligation secured thereby or the delivery to the Trustee of any property released from such lien except as aforesaid.

(g) The Trustee shall have no duty to check, verify, analyze or compare any amortization schedule, or any financial or other statement or report, furnished pursuant hereto or pursuant to the Note Agreements or any instrument included in the Trust Estate.

(h) The Trustee shall not be concerned with or accountable to anyone for the use or application of any property or the proceeds thereof released from the lien of this Indenture in accordance with any provision hereof.

(i) In accepting the trusts hereunder and the Trust Estate, the Trustee acts solely as trustee hereunder and not in its individual capacity. All persons, other than the Company and the holders of the Notes, having any claim against the Trustee arising by reason of the Trust Estate or the trusts hereunder, shall look only to the Trust Estate for payment or satisfaction.

(j) As promptly as possible, after obtaining knowledge of an Event of Default, the Trustee shall transmit by mail, notice of such Event of Default to the Company and the holders of the Notes unless such Event of Default shall have been cured or waived. In the event that the Trustee shall have transmitted a notice of an Event of Default, and such Event of Default is subsequently cured or waived, the Trustee shall give notice to such effect to the Company and the holders of the Notes. The Trustee shall not be required to ascertain or inquire as to anyone's observance or performance of any provision hereof or of any instrument included in the Trust Estate. The Trustee shall not be deemed to have notice or knowledge of any Default or Event of Default hereunder or under any instrument included in the Trust Estate (except default in the payment of moneys to the Trustee which are required by any provision hereof or of any instrument included in the Trust Estate to be paid to the Trustee on or before a specified date or within a specified time after receipt by the Trustee of a notice or certificate which was in fact received, and default in the delivery of any certificate or opinion expressly required to be delivered to the Trustee by any provision hereof), unless the Trustee shall receive notice from the Company or the holder of any Note, specifying the same. In the absence of such notice the Trustee may conclusively assume that no such Default or Event of Default exists unless the Trustee has actual knowledge thereof and except as aforesaid.

(k) Notwithstanding anything to the contrary in this Indenture, the Trustee shall at all times be responsible in the exercise of its rights and powers and the performance of its required duties hereunder and in relying on opinions of counsel or any instrument hereunder for exercising such degree of skill and care as a prudent trustee would use or exercise under the circumstances in the conduct of fiduciary responsibilities.

SECTION 7.02. Resignation or Removal.

The Trustee may resign and be discharged of the trusts hereunder, by giving notice of such resignation to the Company and the holders of the Notes, specifying the date (which shall be not less than 60 days after the date of mailing such notice) when such resignation shall take effect. Such resignation shall take effect on the date so specified unless previously a successor trustee shall have been appointed as provided in Section 7.03(a), in which event such resignation shall take effect upon the date the appointment is accepted by such successor and thereby becomes effective. The Trustee may be removed at any time by the Requisite Holders.

SECTION 7.03. Successor Trustees.

(a) If at any time the Trustee shall resign or be removed or otherwise become incapable of acting, or if the Trustee shall be taken under the control of any public officer or officers or of a receiver appointed by a court, then a successor or successors may be appointed by the Requisite Holders or, if the Requisite Holders have not so acted within 30 days of any such resignation, removal or incapacity of the Trustee or the date the Trustee has been taken under the control of any such public officer or officers or of a receiver appointed by a court, by the Company. The Company shall promptly notify the holders of the Notes of any such appointment made by it, and any new trustee so appointed by the Company shall immediately and without further act be superseded by a trustee appointed by the Requisite Holders.

(b) Any successor to the Trustee shall execute, acknowledge and deliver to its predecessor and the Company an instrument accepting such appointment hereunder, and thereupon such successor trustee, without any further act or instrument, shall become the Trustee and be vested with all the estates, properties, rights, remedies and trusts of its predecessor with like effect as if originally named as such trustee herein. Nevertheless, on the request of the Company or the successor trustee, such predecessor shall execute and deliver an instrument transferring to such successor trustee, upon the trusts hereby created, all the estates, properties, rights, remedies and trusts of such predecessor and shall duly assign, transfer, deliver and pay over to the successor trustee any moneys and other property subject to the lien of this Indenture and held by such predecessor. Should any act or instrument from the Company or the Trustee be required by any successor trustee for more fully and certainly vesting in and confirming to such successor trustee such estates, properties, rights, remedies and trusts, then on request any and all such acts and instruments shall be done, made, executed, acknowledged and delivered by the Company or the Trustee, as the case may be.

(c) Any successor to the Trustee, however constituted, shall be a bank or trust company organized and existing under the laws of the United States or any state thereof and having capital funds as of the date of appointment of such successor (as shown by its then most recent financial statement distributed to its shareholders) aggregating at least \$100,000,000.

(d) Any corporation into which the Trustee may be merged or with which it may be consolidated, or any corporation resulting from any merger or consolidation or conversion to which the Trustee shall be a party, shall be the successor to the Trustee under this Indenture without the execution or filing of any paper or any further act on the part of any of the parties hereto, notwithstanding any contrary provision of this Indenture..

SECTION 7.04. Separate and Co-Trustees.

(a) The Trustee and the Requisite Holders shall each have the power from time to time to appoint one or more Persons to act either as co-trustees jointly with the Trustee, or as separate trustees, for the purpose of conforming to any legal requirement, restriction or condition in any jurisdiction in which any of the Trust Estate is located. The separate trustees and co-trustees so appointed shall be trustees for the benefit of the holders of all the Notes and shall have such powers, rights and remedies as shall be

specified in the instrument of appointment. The Company shall join in any such appointment upon the request of the Trustee or the Requisite Holders, but such joining shall not be necessary for the effectiveness of such appointment.

(b) Every separate trustee and co-trustee shall be appointed subject to the following provisions and conditions:

(i) its powers, rights and remedies shall be limited by applicable law and shall be exercised by the Trustee and such separate trustee or co-trustee jointly, *except* to the extent that under any law of any jurisdiction in which any particular act or acts are to be performed the Trustee shall be incompetent or unqualified to perform such act or acts, in which event such powers, rights and remedies shall be exercised and performed by such separate trustee or co-trustee, but only with the consent of the Trustee;

(ii) the Trustee shall maintain custody of all money and securities; and

(iii) the Trustee or the Requisite Holders may at any time accept the resignation of or remove any separate trustee or co-trustee appointed under this Section 7.04.

(c) Any notice, request or other writing given to the Trustee shall be deemed to have been given to each of the then separate trustees and co-trustees, as effectively as if given to each of them. Every instrument appointing any separate trustee or co-trustee shall refer to this Indenture and the conditions of this Article VII. Each separate trustee and co-trustee, upon its acceptance of the trusts conferred, shall be vested with the estates or property specified in its instrument of appointment, either jointly with the Trustee or separately, as may be provided therein, subject to all the provisions of this Indenture. Every such instrument shall be filed with the Trustee.

(d) Any separate trustee or co-trustee may, at any time, constitute the Trustee its agent or attorney-in-fact, with full power and authority, to the extent not prohibited by law, to do any lawful act under or in respect of this Indenture on its behalf and in its name. If any separate trustee or co-trustee shall die, become incapable of acting, resign or be removed, all of its estates, properties, rights, remedies and trusts shall vest in and be exercised by the Trustee, to the extent permitted by law, without the appointment of a new or successor trustee.

SECTION 7.05. Responsibility for Other Trustees; Interest.

(a) No trustee hereunder shall be personally liable by reason of any act or omission of any other trustee hereunder *except* to the extent required by law.

(b) Moneys held by the Trustee hereunder need not be segregated in any manner from any other moneys *except* to the extent required by law and *except* as otherwise provided in this Indenture. All such moneys may be deposited under such general conditions as may be prescribed by law in the general banking department of the Trustee, and the Trustee shall not be liable for any interest thereon other than interest which the Trustee agrees in writing to pay.

SECTION 7.06. Trustee Not Obligated to Act.

No provision of this Indenture or any instrument included in the Trust Estate shall be deemed to impose any duty or obligation on the Trustee to perform any act or exercise any right or remedy in any jurisdiction in which from time to time (i) it shall be illegal, (ii) the Trustee shall be unqualified or incompetent to perform such act or to exercise such right or remedy, or (iii) performance or exercise would constitute doing business by the Trustee in such jurisdiction and the Trustee is not qualified to do business therein. Instead, all such acts, rights and remedies shall be performed and exercised by a separate trustee or co-trustee appointed under Section 7.04.

ARTICLE VIII
SUPPLEMENTAL INDENTURES

SECTION 8.01. General.

The Company and the Trustee may enter into indentures supplemental hereto as provided in this Article VIII. The Trustee may, in its discretion, decline to enter into any supplemental indenture if the Trustee's own rights, duties or immunities shall be adversely affected. Whenever the consent of the holder of any Note shall be required for the execution of a supplemental indenture, it shall be sufficient if the substance of the supplemental indenture is consented to, not its particular form.

SECTION 8.02. Without Holders' Consent.

Indentures supplemental hereto may be entered into without the consent of the holder of any Note for any of the following purposes:

- (a) to correct or amplify the description of any property subject or intended to be subject to the lien of this Indenture;
- (b) to add property to or release it from the Trust Estate as permitted or required by this Indenture, or to Grant additional property to the Trustee (including the Grant of Items of Future Equipment and Additional Equipment pursuant to Indenture Supplements executed and delivered pursuant to Section 1.6 of the Note Agreements);
- (c) to increase any obligations or duties of the Company owing to the Trustee, or to surrender any rights of the Company hereunder;
- (d) to cure any ambiguity, or to cure or correct any inconsistent, illegal or defective provision;
- (e) to add or modify any other provisions or agreements in this Indenture in any manner which will not adversely affect the interests of the holders of the Notes; and
- (f) to qualify this Indenture under the Trust Indenture Act of 1939, as amended, or any similar federal law, but not to include therein the provisions referred to in Section 316(a)(2) of said Act or any corresponding provision of any similar federal law.

SECTION 8.03. Consent of all Holders.

Without the consent of the Requisite Holders, no indenture supplemental hereto shall:

- (a) impair the right of the holder of any Note to receive the payments and prepayments of principal, premium and interest on such Note as now provided therein or herein;
- (b) *except* as expressly permitted by this Indenture, permit the creation of any lien on the Trust Estate equal or prior to the lien of this Indenture or deprive the holder of any Note of the benefit of a lien on the Trust Estate, *except* that any indenture supplemental hereto which Grants additional property to the Trustee may Grant such property subject to Permitted Encumbrances;
- (c) amend the definition of Requisite Holders in Article XI; or
- (d) amend or modify Sections 6.01(a), (h) or (i), 6.02 or this Section 8.03.

SECTION 8.04. Consent of Less Than All Holders.

Except as otherwise provided in Section 8.02 or 8.03, indentures supplemental hereto may be entered into for any purposes with the consent of the Requisite Holders.

SECTION 8.05. Exchange; Legend or Notation; Effect.

(a) The Trustee shall promptly send to each holder a conformed copy of each indenture supplemental hereto, but the failure to do so will not impair or affect its validity.

(b) The Company or the Trustee may require that the Notes bear a legend or other notation as to any matter provided for in any indenture supplemental hereto, or that New Notes be issued in exchange for the Notes, as provided in Section 1.04, but modified to conform to any modification effected by such supplemental indenture. Any such legending, notation or exchange shall be at the cost and expense of the Company, and all legends, notations and modifications shall be in form approved by the Trustee.

(c) The Trustee shall send stickers bearing such legend or notation to the holders of the Notes and the holders of the Notes shall affix such stickers to the Notes held by them, or the holders of the Notes may present the Notes held by them at the Corporate Trust Office for the purpose of stamping, typing or printing any such legend or notation thereon.

(d) Upon the execution of any indenture supplemental hereto this Indenture shall be modified in accordance therewith, and such supplemental indenture shall form a part of this Indenture for all purposes; and every holder of Notes theretofore or thereafter issued and delivered hereunder shall be bound thereby.

SECTION 8.06. Consents in Writing; Opinion of Counsel.

(a) Any consent of the holders of Notes provided for in this Article VIII shall be embodied in or evidenced by one or any number of concurrent instruments of substantially similar tenor and any such consent shall become effective when such instrument or instruments are delivered to the Trustee.

(b) In executing, or accepting the additional trusts created by, any indenture supplemental hereto permitted by this Article VIII or the modifications thereby of the trusts created by this Indenture, the Trustee shall be entitled to receive and shall be fully protected in relying upon an opinion of counsel satisfactory in form and substance to the Trustee to the effect that, (i) any such supplemental indenture will not materially or adversely impair the security of the Notes or the rights of the holders thereof in contravention of the provisions of this Indenture, (ii) the execution and delivery of such supplemental indenture is authorized or permitted by this Indenture and complies with the requirements of this Article VIII, (iii) such supplemental indenture has been duly authorized, executed and delivered by the Company, and (iv) it is proper for the Trustee to join in the execution of such supplemental indenture.

ARTICLE IX

DISCHARGE OF INDENTURE

SECTION 9.01. Defeasance.

This Indenture and all agreements contained herein shall cease and terminate when all principal, interest, premium and other amounts payable on the Notes and all amounts payable under or in respect of this Indenture shall have been paid in full, whether at the maturity of the Notes, by acceleration, by prepayment or otherwise, or sufficient moneys are held by the Trustee for such purposes, and satisfactory provision has been made for paying all sums payable thereunder. Upon the termination of this Indenture, the Trustee shall execute and deliver, at the cost and expense of the Company and upon delivery to the Trustee of a certificate signed by an Executive Officer of the Company and an opinion of counsel to the Trustee that all conditions precedent contained herein to the satisfaction and discharge of this Indenture have been complied with, such instruments as shall be reasonably requested by the Company to satisfy and discharge the lien of this Indenture. The Trustee shall then transfer to the Company or other person or persons entitled thereto the property held in the Trust Estate, other than money unclaimed by the holders entitled thereto.

SECTION 9.02. Disposition of Unclaimed Funds.

The Trustee shall hold in trust all money remaining in its control and unclaimed by the holders entitled thereto for a period of six years after the discharge of this Indenture, and shall use its best efforts to notify such holders thereof. At the expiration of such six-year period such trust shall automatically cease and terminate, and any money remaining in the possession of the Trustee and still unclaimed by the holders entitled thereto shall be paid to or upon the order of the Company. Such holders shall thereafter look only to the Company for payment.

SECTION 9.03. Notice of Discharge.

Upon the complete satisfaction and discharge of this Indenture, the Trustee shall give notice thereof to the Company.

ARTICLE X MISCELLANEOUS

SECTION 10.01. Corporate Obligation.

No recourse may be taken, directly or indirectly, against any incorporator, subscriber to the capital stock, stockholder, officer or director of the Company or any predecessor of the Company with respect to the obligations of the Company on the Notes, under this Indenture or with respect to any other instrument included in the Trust Estate or any certificate or other writing delivered in connection herewith or therewith, *provided, however*, that nothing in this Section 10.01 shall preclude recourse being taken against Duke with respect to its obligations under such of the Operative Documents to which it is a party.

SECTION 10.02. Benefit of this Indenture.

This Indenture is for the exclusive benefit of the Trustee, the holders of the Notes and, to the extent expressly provided herein, the Company. Nothing in this Indenture shall be construed to give any other Person any right, remedy or claim under or in respect of any provision hereof.

SECTION 10.03. Proof of Instruments.

Any instrument or other communication delivered under or in respect of this Indenture shall be in writing and shall be signed by the Person giving the same or by his duly appointed attorney. The fact and date of the execution by any Person of any such instrument or of a writing appointing any such agent may be proved conclusively in favor of the Trustee for any purpose of this Indenture by the affidavit of a witness of such execution or by the certificate of any notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the Person signing such instrument or writing acknowledged to him the execution thereof.

SECTION 10.04. Notices.

All notices, requests and demands under this Indenture shall be in writing and shall be deemed to have been given when delivered, or when mailed by first class registered or certified mail, postage prepaid, and addressed, in each case as follows: (i) if to the Trustee, to 4 Girard Plaza, Philadelphia, Pennsylvania 19101, Attention: Corporate Trust Department, (ii) if to the Company, to its address set forth above, together with a copy to its President, c/o Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242, and to Peter White, c/o Hawley Fuel Corporation, 1 Dag Hammarskjold Plaza, New York, New York 10017, Attention: General Counsel, or (iii) if to the holder of any Note, to its address for notices specified in the Register or if such Note is an Order Note to the address furnished by such holder to the Trustee in writing. Any of the foregoing Persons may change its address for notice hereunder by giving notice of such change to all parties hereto and all other Persons referred to in this Section 10.04. Any notice required to be given under this Indenture may

be waived in writing by the Person entitled to receive it, either before or after the time when such notice was required to have been given.

SECTION 10.05. Powers and Agencies.

Whenever in this Indenture the Trustee is granted a power of attorney or is appointed the agent and attorney-in-fact with respect to any Person, such grant or appointment is irrevocable and coupled with an interest. The Trustee shall have full power of substitution and delegation in respect of all such grants and appointments.

SECTION 10.06. Separability.

No provision of this Indenture or the Notes shall require the payment or permit the collection of interest in excess of the maximum permitted by applicable law, any contrary provision in this Indenture or the Notes notwithstanding. If any provision of this Indenture or the Notes or its application shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of all other provisions and applications hereof and thereof shall not in any way be affected or impaired.

SECTION 10.07. Binding Effect.

All provisions of this Indenture shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto. Any action by the holder of any Note shall bind every future holder of the same Note and of New Notes issued in respect thereof.

SECTION 10.08. Applicable Law.

The laws of the State of New York (including the conflict of laws rules) shall govern the respective rights and duties of the Trustee, the Company and each holder of any of the Notes with respect to this Indenture, the Notes and the transactions between the Trustee, the Company and the holders of the Notes contemplated by this Indenture and the Notes, and this Indenture and the Notes shall be governed by and construed and enforced in accordance with such laws, including all matters of construction, validity and performance.

SECTION 10.09. Counterpart Execution; Construction.

The table of contents and section and article headings herein are for convenience of reference only, and shall not limit or otherwise affect the meaning hereof. This Indenture may be executed in several counterparts, each of which shall constitute an original, but all of which together shall constitute one and the same instrument.

ARTICLE XI

DEFINED TERMS

When used in this Indenture, each term defined in this Article XI shall have the meaning indicated:

“Additional Equipment”—the Items of Equipment described on Schedule A to each Indenture Supplement delivered pursuant to Section 1.6(c) of the Note Agreements.

“Affiliate”—with respect to any corporation, a Person (1) which directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with, such corporation, (2) which beneficially owns or holds 5% or more of any class of the Voting Stock (as defined in the Note Agreements) of such corporation or (3) 5% or more of the Voting Stock (or in the case of a Person which is not a corporation, 5% or more of the equity interest) of which is beneficially owned or held by such corporation or a Subsidiary. The term “control” means the possession, directly or indirectly, of the power to direct or cause the

direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

"After-Acquired Property"—all property of any kind, including each amendment or supplement to any and all instruments included in the Trust Estate which may from time to time, by delivery to the Trustee or by any instrument, including this Indenture, be subjected to the lien hereof by the Company or anyone on the behalf or with the consent of the Company, or which may come into the possession or be subject to the control of the Trustee pursuant to this Indenture, or pursuant to any instrument included in the Trust Estate.

"Application"—an instrument requesting the Trustee to take an action under a Section of this Indenture specified in such instrument, and shall consist of, and not be deemed to be made or complete until the Trustee shall have been furnished with, such funds, instruments, certificates and opinions as may be required by such Section to establish the right of the Person making such Application to have such action taken by the Trustee.

"Assigned Payments"—as defined in the Assignment.

"Assignment"—the Assignment and Agreement dated as of August 1, 1976, among Duke, Peter White, as assignor, and the Trustee, as assignee, which relates to the Coal Sales Agreement.

"Assignment of Project Development Agreement"—the Assignment of Project Development Agreement dated as of August 1, 1976, among Peter White, the Company, as assignor, and the Trustee, as assignee, which relates to the Project Development Agreement.

"Capitalized Cost"—with respect to any Item of the Equipment, the costs and expenses which have been incurred by the Company prior to the date of computation in connection with the acquisition and putting into use of such Item including, without limitation, (i) amounts paid to the manufacturer or vendor thereof, (ii) costs of freight, installation and erection and (iii) interest and financing costs incurred and reasonably anticipated to be incurred in connection with such Item, including attorneys' fees and expenses, commissions, printing, stenographic and duplicating expenses and all other expenses which in the Company's judgment may be properly capitalized in accordance with generally accepted accounting principles as a part of the cost of financing such Item.

"Closing Date"—any day specified as a closing date for the purchase and sale of Notes pursuant to Section 1.2 of the Note Agreements.

"Coal Sales Agreement"—the Coal Sales Agreement dated as of January 1, 1974, between Duke, through its agent and wholly-owned subsidiary Mill-Power Supply Company, a North Carolina corporation, as buyer, and Peter White, as seller, as the same may be amended or supplemented from time to time as permitted thereby, by the Assignment and hereby.

"Corporate Trust Office"—the office of the Trustee located at 4 Girard Plaza, Philadelphia, Pennsylvania 19101, or at such other address as the Trustee may designate from time to time by notice to the holders of the Notes and the Company.

"counsel"—any legal counsel satisfactory to the Trustee, who may be of counsel to the Trustee or the holders of the Notes, or of counsel to, or employed in the law department of the Company or Duke or Peter White.

"date of delivery of this Indenture"—September 29, 1976.

"Default"—any act or occurrence which, with notice or lapse of time, or both, would constitute an Event of Default under this Indenture.

"Deficient Equipment"—as defined in Section 2.10(d).

"Duke"—Duke Power Company, a North Carolina corporation, together with any corporation succeeding thereto by merger, consolidation or acquisition of all or substantially all of its assets.

"Encumbered Proceeds"—as defined in Section 4.02.

"Equipment"—all of the Items, collectively.

"Event of Default"—any occurrence or act designated an Event of Default in Section 6.01.

"Executive Officer"—with respect to any corporation, the Chairman of the Board of Directors, the President, any Vice President, the Secretary or the Treasurer of such corporation; with respect to any partnership, any general partner thereof; and with respect to any bank or trust company acting as trustee of an express trust, the term also includes any trust officer thereof.

"Future Equipment"—the Items of Equipment described on Schedule A to each Indenture Supplement delivered pursuant to Section 1.6(a) of the Note Agreements.

"Grant"—to grant, bargain, sell, warrant, alien, demise, release, convey, assign, transfer, mortgage, pledge, deposit, set over, confirm and create a security interest. Unless otherwise specified, a Grant relating to any document shall include all rights, powers, and options (but none of the obligations) of the Granting party thereunder, including, without limitation, the immediate and continuing right to claim for, collect, receive and receipt for, payments, rents, insurance proceeds, condemnation awards, purchase prices and all other moneys payable thereunder, to give and receive notices and other communications, to make waivers or other agreements, to exercise all rights and options, to bring Proceedings in the name of the Granting party or otherwise, and generally to do anything which the Granting party is or may be entitled to do thereunder or with respect thereto.

"holder"—with respect to any Note, the Person in whose name such Note was issued shall be deemed to be the holder thereof (1) if such Note is an Order Note, until the Company receives notice, in accordance with Section 4.1 of the Note Agreements, of the transfer of such Note from the Person in whose name such Note was issued, or (2) if such Note is a Registered Note which has not yet been registered in the Register, and, if such Note is a Registered Note which has been registered in the Register, the Person whose name appears in the Register as the registered holder of such Note shall be deemed to be the holder thereof, *provided*, that from the date of delivery of this Indenture until the purchase of a Note or Notes by a Purchaser pursuant to the Note Agreements or December 1, 1976, whichever shall first occur, each Purchaser shall be deemed to be a holder of Notes in an aggregate principal amount equal to that set forth opposite its name on Schedule A to the Note Agreements for the purposes of any amendments, waivers or consents with respect to the Note Agreements or this Indenture.

"Indenture"—as defined in the initial paragraph of this Indenture.

"Indenture Supplement"—any indenture supplemental hereto in substantially the form attached as Schedule C.

"Instalment Payments"—the amounts described as Instalment Payments in Section 1.01.

"Item" or "Item of Equipment"—each separate item of equipment (*except* any Item of Equipment which has been released from the lien of this Indenture pursuant to the terms hereof) described in Schedule A hereto, as Schedule A may be periodically supplemented by the Indenture Supplements and any replacements thereof, substitutions therefor or additions thereto pursuant to this Indenture, and **"Items" or "Items of Equipment"** shall mean all such Items, collectively.

"Letter Agreement"—as defined in the Note Agreements.

"Lien"—as defined in the Note Agreements.

"lien of this Indenture"—the lien, security interest or other interest or charge Granted to the Trustee by this Indenture (including the after-acquired property clauses hereof) or pursuant hereto (whether made by the Company or any other person) or otherwise created, effectively constituting any property a part of the security held by the Trustee for the benefit of the holders of the Notes.

"Mines"—as defined in the Project Development Agreement.

"Net Insurance Proceeds"—any payment received by the Trustee as the proceeds of insurance required to be maintained by the Company pursuant to this Indenture or as the proceeds of any condemnation award, less any expenses paid by the Trustee in connection therewith.

"New Notes"—as defined in Section 1.04 of this Indenture.

"9½ % Notes"—the 9½ % Senior Secured Notes due December 1, 1985 issued by the Company pursuant to this Indenture.

"Notes"—the 10½ % Notes and the 9½ % Notes, collectively.

"Note Agreements"—the nine separate Note Agreements of the Company with Aetna Life Insurance Company, The Aetna Casualty and Surety Company, Morgan Guaranty Trust Company of New York, as agent for an institutional investor, Bankers Life Company, Dollar Savings Bank, Gulf Life Insurance Company, The Ohio National Life Insurance Company, American-Amicable Life Insurance Company and Southern Life and Health Insurance Company, respectively, each dated August 1, 1976, as the same may be amended or supplemented from time to time as permitted thereby.

"Old Notes"—as defined in Section 1.04 of this Indenture.

"Operative Documents"—as defined in the Note Agreements.

"opinion of counsel"—an opinion or opinions in writing, signed by counsel and reasonably acceptable to the Person to whom such opinion is addressed.

"Order Note"—any Note which has been issued payable to a person or order.

"Original Equipment"—the Items of Equipment described on Schedule A hereto on the date of delivery of this Indenture.

"outstanding"—with respect to Notes as of any particular time, all Notes *except*

(i) Notes previously cancelled by the Trustee or surrendered to the Trustee for cancellation;

(ii) Notes previously paid in full or Notes required to be prepaid in whole within 30 days thereafter, *provided* that, in the case of Notes to be prepaid, moneys sufficient for such prepayment shall have been deposited with the Trustee in accordance with the provisions of this Indenture and notice of such prepayment shall have been given or provision therefor satisfactory to the Trustee shall have been made; and

(iii) Notes for which Notes shall have been issued pursuant to Section 1.04;

and *except also* that for the purpose of determining whether the holders of the requisite unpaid principal amount of Notes have made or concurred in any notice, request, demand, direction, consent, approval, order, waiver, acceptance, appointment or other instrument or communication under or pursuant to this Indenture, Notes registered in the name of, or owned beneficially by, the Company, Peter White or Duke, or any subsidiary or affiliate thereof, shall be deemed not to be outstanding.

"Parts"—all appliances, parts, instruments, appurtenances, accessories, furnishings and other equipment of whatever nature (other than Items of Equipment) which may from time to time be incorporated or installed in or attached to any Item or Items of Equipment.

"Payment Date"—December 1, 1976 and the 1st day of each March, June, September and December thereafter to and including December 1, 1985.

"Permitted Contest"—with respect to any Lien on or against any Property, an appropriate Proceeding timely instituted by the Company, Duke or Peter White in good faith and at its own expense which shall operate to prevent the collection or satisfaction of the Lien so contested, the

effect specified in clauses (i) through (iii) of Section 2.07(b) or clauses (i) through (iii) of paragraph 8(b) of the Assignment and the sale or forfeiture of such Property (or of any amounts payable by the Company hereunder) to satisfy the same, and which shall not in the reasonable judgment of the Trustee materially affect the rights or interests of the Trustee or any holder of any Note or result in the occurrence of an Event of Default; *provided, however*, that the Company, Duke or Peter White, as the case may be, shall have given such security as may be required in the Proceeding and such reasonable security as may be demanded by the Trustee to insure such collection or satisfaction and to prevent any sale or forfeiture of such Property by reason of such noncollection or nonsatisfaction and that such Proceeding would not have the effect of materially impairing the use of such Property or materially and adversely affecting the value thereof and would not risk the loss or forfeiture of title to such Property; and, *provided further*, that neither the Trustee nor any holder of any Note would be in any danger of criminal liability, or other liability or obligation for which no indemnification is provided under any Operative Document (as defined in the Note Agreements), by reason of such noncollection or nonsatisfaction.

"Permitted Encumbrances"—with respect to any Property, but only to the extent applicable to such Property: (i) rights reserved to or vested in any government or public authority by the terms of any right, power, franchise, grant, license, permit or provision of law affecting such portion to terminate such right, power, franchise, grant, license or permit, *provided* that the exercise of such right would not materially impair the use of such portion or materially and adversely affect the value thereof; (ii) any Liens thereon for taxes, assessments, levies, fees, and other governmental and similar charges and any liens of mechanics, materialmen and laborers for work or services performed or materials furnished in connection with such property, which are not due and payable or which are not delinquent or which are the subject of a Permitted Contest; (iii) restrictions and other minor defects, encumbrances, and irregularities in the title to such property which do not materially impair the use of such Property or materially and adversely affect the value thereof or risk loss or forfeiture of title to such Property; (iv) rights reserved to or vested in any municipality or public authority to control or regulate such Property or to use such Property in any manner, which rights do not materially impair the use of such Property or materially and adversely affect the value thereof; (v) statutory Liens under the laws of the State of West Virginia and contractual Liens in either case in favor of the owner of the land or mineral rights therein and which Liens do not materially impair the use of such land or mineral rights or materially and adversely affect the value thereof; (vi) Liens which have the effect specified in clauses (i), (ii) or (iii) of Section 2.07(b) or clauses (i), (ii) or (iii) of paragraph 8(b) of the Assignment if the Company or Duke, as the case may be, is in compliance with said Section 2.07(b) or said paragraph 8(b) of the Assignment; and (vii) this Indenture (and any rights granted as provided herein) and the instruments included in the Trust Estate.

"Person"—any individual, partnership, corporation, trust, an estate, unincorporated association or joint venture, a government or any department or agency thereof, or any other entity.

"Peter White"—Peter White Coal Mining Corp., a West Virginia corporation, together with any corporation succeeding thereto by merger, consolidation or acquisition of all or substantially all of its assets.

"Principal Subsidiary"—as defined in the Note Agreements.

"Proceeding"—any suit in equity, action at law or other judicial or administrative proceeding.

"Project Development Agreement"—the Project Development Agreement dated as of August 1, 1976 between the Company and Peter White, as the same may be amended and supplemented from time to time as permitted thereby, by the Assignment of Project Development Agreement and hereby.

"Property"—any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible.

"Purchaser"—as defined in the Note Agreements.

"Register"—as defined in Section 1.02 of this Indenture.

"Registered Note"—any Note registered pursuant to Section 1.02.

"Requisite Holders"—the holders of not less than a particular percentage of the unpaid principal amount of the Notes then outstanding, which percentage shall be (i) 25% in the case of Sections 2.08, 3.01 and 6.02(a), (ii) 51% in the case of Sections 6.07(a) (ii), 6.10, 7.01(a), 7.02, 7.03(a), 7.04(a) and 7.04(b) (iii), (iii) 66⅔% in the case of Sections 6.08(a) and 8.04, and (iv) 100% in the case of Section 3.04, 6.08(b) and 8.03.

"Sale"—a sale of any portion of the Trust Estate pursuant to Section 6.02(a) (iii) or (iv).

"Subsidiary"—as defined in the Note Agreements.

"10½ % Notes"—the 10½ % Senior Secured Notes due December 1, 1985 issued by the Company pursuant to this Indenture.

"Trust Estate"—all money, instruments and other property subject or intended to be subject to the lien of this Indenture as of any particular time (including, without limitation, all property and interests Granted in the Granting Clauses of this Indenture), and all estate, right, title and interest of the Trustee in, to and under the Assignment and the Assignment of Project Development Agreement and all money and property received by the Trustee pursuant thereto. The term "instruments included in the Trust Estate" shall include instruments in which only certain interests are actually included in the Trust Estate.

"Trustee"—as defined in the initial paragraph of this Indenture.

IN WITNESS WHEREOF, the Company and the Trustee have caused this Indenture to be executed and delivered and their respective corporate seals to be hereunto affixed and attested by their respective officers thereunto duly authorized, all as of the day and year first above written.

EASTOVER LAND COMPANY

By Ronald Post.....
President

[Corporate Seal]

Attest:

Richard W. Holmes.....
Secretary

GIRARD TRUST BANK,
as Trustee

By AG Deely.....
Vice President

[Corporate Seal]

Attest:

GIRARD TRUST BANK
Authorized Officer

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

On this 28th day of September, 1976, before me personally came RONALD BOST, to me known, who, being by me duly sworn, did depose, say and acknowledge that he resides at Route 2, Box S-407, Denver, North Carolina 28037; that he is the President of EASTOVER LAND COMPANY, one of the corporations described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

William B. Rodman
Notary Public

[NOTARIAL SEAL]

My commission expires:

WILLIAM B. RODMAN
Notary Public, State of New York
No. 03-3319355
Qualified in Bronx County
Cert. Filed in New York County
Commission Expires March 30, 1977

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

On this 29th day of September, 1976, before me personally came H. E. IKELER, JR., to me known, who, being by me duly sworn, did depose, say and acknowledge that he resides at 252 Deer Run, Media, PA 19063; that he is VICE PRESIDENT. of GIRARD TRUST BANK, one of the corporations described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

Jesse R. Joseph
Notary Public

[NOTARIAL SEAL]

My commission expires:

JESSE R. JOSEPH
NOTARY PUBLIC, State of New York
No. 31-7123135
Qualified in New York County
Commission Expires March 30, 1978

(c) The Trustee may institute any Proceeding under or in respect of this Indenture without possessing or producing any Note. The Trustee shall institute all such Proceedings in its name as trustee of an express trust, *except* as otherwise provided in Article VII, without the necessity of joining any holder as a party.

SECTION 6.08. Waiver of Events of Default.

(a) The Trustee shall waive any Event of Default upon the request of the Requisite Holders, unless such waiver would be prohibited by Section 6.08(b).

(b) Without the consent of the Requisite Holders, the Trustee shall waive no Event of Default if another Event of Default is then continuing, unless such other Event of Default would not have existed but for an acceleration of the Notes arising out of the Event of Default to be waived, or if such waiver would excuse the due observance or performance of the provisions of Section 2.06 or 2.09. Notwithstanding the foregoing sentence, no Event of Default under Section 6.01(h) shall be waived without the consent of the Requisite Holders.

(c) Any acceleration declared or otherwise effectuated pursuant to Section 6.02 shall be deemed rescinded and annulled upon the waiver, as provided in this Section 6.08, of the Event of Default giving rise thereto. The Trustee and the holders of the Notes shall be restored to their former positions and rights under this Indenture upon the waiver of any Event of Default or upon the discontinuance or abandonment of any Proceeding under or in respect of this Indenture. No waiver shall extend to or affect any subsequent Default or Event of Default.

SECTION 6.09. Rights Cumulative.

All rights and remedies from time to time conferred upon or reserved to the Trustee and the holders of the Notes are cumulative, and none is intended to be exclusive of any other. The failure of the Trustee or the holder of any Note to insist upon the strict observance or performance of any provision of this Indenture, or to exercise any right or remedy, shall not be construed as a waiver or relinquishment of such provision and shall not impair such right or remedy. Every right and remedy under or in respect of this Indenture may be exercised from time to time as often as may be deemed expedient.

SECTION 6.10. Involvement of Holders.

The Trustee shall promptly notify the holders of the Notes as to the occurrence, the curing or the waiver of any Event of Default of which it has actual knowledge. The Requisite Holders shall have the right, by instruments delivered to the Trustee, to direct the time, method, manner and place of enforcing any right or remedy under or in respect of this Indenture, subject to the provisions of this Indenture with respect to indemnification. If the Trustee receives no such instrument, the Trustee may proceed as it sees fit.

SECTION 6.11. Applicable Law.

The rights, remedies and powers provided by this Article VI may be exercised only to the extent permitted by applicable law. All provisions of this Article VI are intended to be subject to applicable mandatory provisions of law, and to be limited to the extent necessary so that they will not render this Indenture invalid or unenforceable.

ARTICLE VII

THE TRUSTEE

SECTION 7.01. Acceptance of Trusts; Accountability of Trustee.

(a) The Trustee accepts the trusts hereunder and agrees to perform its required duties in accordance with the provisions of this Indenture. The Trustee shall have the right, power and authority to do any

Executive Officer of such party and delivered to the Trustee. Such certificate shall be full warrant to the Trustee for any action taken, suffered or omitted on the faith thereof, but in its discretion the Trustee may require and accept, in lieu thereof, such other evidence of such matter as it deems reasonable. In the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates and opinions furnished to it and conforming to the requirements of this Indenture.

(f) The Trustee shall have no duty to see to or give notice with respect to any required filing, registration, recording, refiling, reregistration or re-recording in respect of this Indenture or any instrument included in the Trust Estate or to the payment of any fees, charges or taxes in connection therewith except any filing, registration, recording, refiling, reregistration or payment referred to in any opinion of counsel received by the Trustee. In addition, the Trustee shall have no duty in respect of any tax or assessment or other governmental charge which may be levied or assessed on the Trust Estate or any portion thereof or against the Company. The Trustee shall be under no obligation to see to the payment or discharge of any Lien on the Trust Estate (other than the lien of this Indenture, and then only to the extent herein provided, and any Lien created or incurred by the Trustee in its individual capacity), or to see to the payment of any obligation secured thereby or the delivery to the Trustee of any property released from such lien except as aforesaid.

(g) The Trustee shall have no duty to check, verify, analyze or compare any amortization schedule, or any financial or other statement or report, furnished pursuant hereto or pursuant to the Note Agreements or any instrument included in the Trust Estate.

(h) The Trustee shall not be concerned with or accountable to anyone for the use or application of any property or the proceeds thereof released from the lien of this Indenture in accordance with any provision hereof.

(i) In accepting the trusts hereunder and the Trust Estate, the Trustee acts solely as trustee hereunder and not in its individual capacity. All persons, other than the Company and the holders of the Notes, having any claim against the Trustee arising by reason of the Trust Estate or the trusts hereunder, shall look only to the Trust Estate for payment or satisfaction.

(j) As promptly as possible, after obtaining knowledge of an Event of Default, the Trustee shall transmit by mail, notice of such Event of Default to the Company and the holders of the Notes unless such Event of Default shall have been cured or waived. In the event that the Trustee shall have transmitted a notice of an Event of Default, and such Event of Default is subsequently cured or waived, the Trustee shall give notice to such effect to the Company and the holders of the Notes. The Trustee shall not be required to ascertain or inquire as to anyone's observance or performance of any provision hereof or of any instrument included in the Trust Estate. The Trustee shall not be deemed to have notice or knowledge of any Default or Event of Default hereunder or under any instrument included in the Trust Estate (except default in the payment of moneys to the Trustee which are required by any provision hereof or of any instrument included in the Trust Estate to be paid to the Trustee on or before a specified date or within a specified time after receipt by the Trustee of a notice or certificate which was in fact received, and default in the delivery of any certificate or opinion expressly required to be delivered to the Trustee by any provision hereof), unless the Trustee shall receive notice from the Company or the holder of any Note, specifying the same. In the absence of such notice the Trustee may conclusively assume that no such Default or Event of Default exists unless the Trustee has actual knowledge thereof and except as aforesaid.

(k) Notwithstanding anything to the contrary in this Indenture, the Trustee shall at all times be responsible in the exercise of its rights and powers and the performance of its required duties hereunder and in relying on opinions of counsel or any instrument hereunder for exercising such degree of skill and care as a prudent trustee would use or exercise under the circumstances in the conduct of fiduciary responsibilities.

specified in the instrument of appointment. The Company shall join in any such appointment upon the request of the Trustee or the Requisite Holders, but such joining shall not be necessary for the effectiveness of such appointment.

(b) Every separate trustee and co-trustee shall be appointed subject to the following provisions and conditions:

(i) its powers, rights and remedies shall be limited by applicable law and shall be exercised by the Trustee and such separate trustee or co-trustee jointly, *except* to the extent that under any law of any jurisdiction in which any particular act or acts are to be performed the Trustee shall be incompetent or unqualified to perform such act or acts, in which event such powers, rights and remedies shall be exercised and performed by such separate trustee or co-trustee, but only with the consent of the Trustee;

(ii) the Trustee shall maintain custody of all money and securities; and

(iii) the Trustee or the Requisite Holders may at any time accept the resignation of or remove any separate trustee or co-trustee appointed under this Section 7.04.

(c) Any notice, request or other writing given to the Trustee shall be deemed to have been given to each of the then separate trustees and co-trustees, as effectively as if given to each of them. Every instrument appointing any separate trustee or co-trustee shall refer to this Indenture and the conditions of this Article VII. Each separate trustee and co-trustee, upon its acceptance of the trusts conferred, shall be vested with the estates or property specified in its instrument of appointment, either jointly with the Trustee or separately, as may be provided therein, subject to all the provisions of this Indenture. Every such instrument shall be filed with the Trustee.

(d) Any separate trustee or co-trustee may, at any time, constitute the Trustee its agent or attorney-in-fact, with full power and authority, to the extent not prohibited by law, to do any lawful act under or in respect of this Indenture on its behalf and in its name. If any separate trustee or co-trustee shall die, become incapable of acting, resign or be removed, all of its estates, properties, rights, remedies and trusts shall vest in and be exercised by the Trustee, to the extent permitted by law, without the appointment of a new or successor trustee.

SECTION 7.05. Responsibility for Other Trustees; Interest.

(a) No trustee hereunder shall be personally liable by reason of any act or omission of any other trustee hereunder *except* to the extent required by law.

(b) Moneys held by the Trustee hereunder need not be segregated in any manner from any other moneys *except* to the extent required by law and *except* as otherwise provided in this Indenture. All such moneys may be deposited under such general conditions as may be prescribed by law in the general banking department of the Trustee, and the Trustee shall not be liable for any interest thereon other than interest which the Trustee agrees in writing to pay.

SECTION 7.06. Trustee Not Obligated to Act.

No provision of this Indenture or any instrument included in the Trust Estate shall be deemed to impose any duty or obligation on the Trustee to perform any act or exercise any right or remedy in any jurisdiction in which from time to time (i) it shall be illegal, (ii) the Trustee shall be unqualified or incompetent to perform such act or to exercise such right or remedy, or (iii) performance or exercise would constitute doing business by the Trustee in such jurisdiction and the Trustee is not qualified to do business therein. Instead, all such acts, rights and remedies shall be performed and exercised by a separate trustee or co-trustee appointed under Section 7.04.

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PETER WHITE PROJECT
EQUIPMENT LIST
UNDERGROUND EQUIPMENT
AS OF 9-28-76

ID	MI	GR	CL	SEQ	PC	DESCRIPTION	MANUFACTURER	MODEL #	SERIAL #	MO/YR	QUANTITY	UNIT COST	Capitalized Cost	D
0001	BH	10	05	51	41	Loading Machine	Joy Mfg.	11BH	8617	11-75	1		\$ 57,886	1
0003	BH	10	02	51	67	Roof Bolter	Galis	300	12742936	07-76	1		30,528	1
0004	BH	10	04	51	56	Continuous Miner	Lee Norse	HH265	7665	07-76	1		301,795	1
0006	BH	10	05	51	39	Loading Machine	Joy Mfg.	14BU10CH	8690R1	07-75	1		36,360	1
0007	BH	10	06	51	64	Rock Duster	S & S Mach.	None	UAD348	07-76	1		2,713	1
0008	BH	10	07	51	63	Coal Hing. Trlr.	S & S Mach.	4718H	SSI 338	08-76	1		10,740	1
0009	BH	10	07	51	63	Coal Hing. Trlr.	S & S Mach.	4718H	SSI 288	08-76	1		10,740	1
0010	BH	10	08	51	64	Scoop Tractor	S & S Mach.	74SSA	290	07-76	1		41,030	1
0011	BH	20	02	51	64	Battery Charger	S & S Mach.	MA40	720	07-76	1		2,669	1
0012	BH	20	02	51	63	Battery Charger	S & S Mach.	MA40	874	08-76	1		2,669	1
0013	BH	20	02	51	63	Battery Charger	S & S Mach.	MA40	872	08-76	1		2,669	1
0014	BH	20	03	51	04	Battery Sets	Gould, Inc.	6455X19	--	01-75	8	\$ 6,095	48,759	1
0015	BH	20	03	51	63	Battery Sets	Gould, Inc.	6455X19	--	08-76	10	7,505	75,046	1
0016	BH	10	13	51	68	Ratio Feeder	FMC Corp.	790	1274164	07-76	1		71,534	1
0017	BH	30	12	51	49	Substation	--	--	--	08-76	1		11,535	1
0018	BH	30	04	51	49	Ventilation Fan	--	XHL1066	--	04-76	1		55,678	1
0019	BH	20	06	51	49	Portal Canopies	--	--	--	06-76	1		19,937	1
0020	BH	20	01	51	49	Belt Head Tail & Stct	--	--	--	03-76	1		28,317	1
0026	BH	10	09	51	63	Battery Tractor	S & S Mach.	270A	270A343	08-76	1		36,808	1
0027	BH	10	09	51	63	Battery Tractor	S & S Mach.	270A	270A394	08-76	1		36,808	1
0028	BH	40	07	53	18	Water Well	Keen Drilling	--	--	08-76	1		14,768	1
0401	BH	10	02	51	67	Roof Bolter	Galis	300	12742935	09-76	1		29,914	1
0402	BH	10	04	51	56	Continuous Miner	Lee Norse	HH265	7666	09-76	1		301,795	1
0412	BH	40	04	51	55	Water Piping	--	--	--	04-76	3,311 ft.	5	17,525	1

\$1,248,243*

PETER WHITE PROJECT
EQUIPMENT LIST
UNDERGROUND EQUIPMENT
AS OF 9-28-76

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AS OF 9-28-76													
ID	MI	GR	CL	SEQ	PC	DESCRIPTION	MANUFACTURER	MODEL #	SERIAL #	MO/YR	QUANTITY	Capitalized	
												UNIT COST	Cost
													\$
0033	CB	10	07	51	06	Coal Hing. Trlr.	S & S Mach.		SSI 124	07-75	1		9,812
0034	CB	10	07	51	06	Coal Hing. Trlr.	S & S Mach.	4718H	SSI 123	07-75	1		9,812
0035	CB	20	02	51	03	Battery Charger	S & S Mach.	MA40	246	11-75	1		2,546
0036	CB	20	02	51	03	Battery Charger	S & S Mach.	MA40	245	11-75	1		2,546
0037	CB	20	02	51	05	Battery Charger	S & S Mach.	MA20	121	07-75	1		3,972
0039	CB	20	02	51	62	Battery Charger	S & S Mach.	MA40	876	08-76	1		2,669
0040	CB	20	02	51	62	Battery Charger	S & S Mach.	MA40	877	08-76	1		2,669
0041	CB	20	02	51	62	Battery Charger	S & S Mach.	MA40	878	08-76	1		2,669
0042	CB	20	03	51	04	Battery Sets	Gould, Inc.	6455x19		01-75	6	\$ 6,095	36,569
0044	CB	10	07	51	62	Coal Hing. Trlr.	S & S Mach.	4718H	SSI337	08-76	1		10,740
0045	CB	10	07	51	62	Coal Hing. Trlr.	S & S Mach.	4718H	SSI287	08-76	1		10,740
0046	CB	10	07	51	62	Coal Hing. Trlr.	S & S Mach.	4718H	SSI321	08-76	1		10,739
0050	CB	10	09	51	03	Battery Tractor	S & S Mach.	S&S 270A	270A138	02-75	1		34,066
0051	CB	10	09	51	03	Battery Tractor	S & S Mach.	S&S 270A	270A139	02-75	1		34,066
0052	CB	10	09	51	03	Battery Tractor	S & S Mach.	S&S 270A	270A304	02-75	1		34,066
0053	CB	10	09	51	05	Battery Tractor	S & S Mach.	S&S 270A	270A303	02-75	1		34,065
0054	CB	10	09	51	62	Battery Tractor	S & S Mach.	S&S 270A	270A393	08-76	1		36,080
0055	CB	10	09	51	62	Battery Tractor	S & S Mach.	S&S 270A	270A342	08-76	1		36,080
0056	CB	10	09	51	62	Battery Tractor	S & S Mach.	S&S 270A	270A362	08-76	1		36,080
0058	CB	40	01	51	70	Water Pump	Gor Rupp	12B2B	None	08-76	7		10,532
0059	CB	40	02	51	42	Air Compressor	Sullair	10-4LL	08095	03-76	1		10,651

\$371,169*

PETER WHITE PROJECT
EQUIPMENT LIST
UNDERGROUND EQUIPMENT

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<u>ID</u>	<u>MI</u>	<u>GR</u>	<u>CL</u>	<u>SEQ</u>	<u>PC</u>	<u>DESCRIPTION</u>	<u>MANUFACTURER</u>	<u>MODEL #</u>	<u>SERIAL #</u>	<u>MO/YR</u>	<u>QUANTITY</u>	<u>Capitalized</u>		<u>D</u>
												<u>UNIT COST</u>	<u>COST</u>	
														\$
0065	NM	20	01	51	36	Belt Head Tail & STCT	W. Va. Armature	36 Inch	Takeup	08-75	1		21,777	1
0067	NM	20	02	51	44	Battery Charger	S & S Mach.	MA40	613	08-76	1		2,669	1
0068	NM	20	02	51	44	Battery Charger	S & S Mach.	MA40	253	12-75	1		2,546	1
0069	NM	20	02	51	44	Battery Charger	S & S Mach.	MA40	381	12-75	1		2,546	1
0070	NM	20	03	51	04	Battery Sets	Gould, Inc.	6455X19	--	01-75	6	6,056	36,337	1
0076	NM	10	08	51	44	Scoop Tractor	S & S Mach.	74SSA	283	08-76	1		41,030	1
0077	NM	10	08	51	44	Scoop Tractor	S & S Mach.	74SSA	235	12-75	1		45,770	1
0078	NM	10	08	51	44	Scoop Tractor	S & S Mach.	74SSA	284	12-75	1		45,770	1
0406	NM	20	03	51	44	Battery Sets	Gould, Inc.	6455X19	--	09-76	2	6,810	13,620	

\$212,065*

PETER WHITE PROJECT
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UNDERGROUND EQUIPMENT
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<u>ID</u>	<u>MI</u>	<u>GR</u>	<u>CL</u>	<u>SEQ</u>	<u>PC</u>	<u>DESCRIPTION</u>	<u>MANUFACTURER</u>	<u>MODEL #</u>	<u>SERIAL #</u>	<u>MO/YR</u>	<u>QUANTITY</u>	<u>UNIT COST</u>	<u>Capitalized Cost</u>	<u>D</u>
0081	EP	10	07	51	06	Coal Hlrg. Trlr.	S & S Mach.	4718H	SSI 119	01-75	1	\$ 6,713	1	
0086	EP	10	08	51	07	Scoop Tractor	S & S Mach.	74SSA	140	04-75	1	37,771	1	
													\$44,484*	

PETER WHITE PROJECT
EQUIPMENT LIST
UNDERGROUND EQUIPMENT
AS OF 9-28-76

ID	MI	GR	CL	SEQ	PC	DESCRIPTION	MANUFACTURER	MODEL #	SERIAL #	MO/YR	QUANTITY	UNIT COST	Capitalized Cost	D
0087	PW	10	07	51	06	Coal Hlmg. Trlr.	S & S Mach.	4718H	SSI 259	11-75	1	.	\$ 9,811	1
0089	PW	20	02	51	05	Battery Charger	S & S Mach.	MA40	MA40942	02-75	1		1,924	1
0090	PW	20	02	51	05	Battery Charger	S & S Mach.	MA40	MA40944	02-75	1		1,924	1
0091	PW	20	02	51	05	Battery Charger	S & S Mach.	MA40	MA40923	02-75	1		2,546	1
0092	PW	20	02	51	05	Battery Charger	S & S Mach.	MA40	MA401179	06-75	1		2,545	1
													\$18,750*	

PETER WHITE PROJECT
EQUIPMENT LIST
UNDERGROUND EQUIPMENT
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ID	MI	GR	CL	SEQ	PC	DESCRIPTION	MANUFACTURER	MODEL #	SERIAL #	MO/YR	QUANTITY	Capitalized	
												UNIT COST	Cost
0095	BF	30	03	51	53	Mine Feeder Cable	Feeder Cable	8KV		05-76	4,592 ft.	6.86	\$ 31,498
0096	BF	40	01	51	75	Water Pump	Trash Pump	53A4-1	MPY73	08-76	1		2,249
0097	BF	10	02	51	10	Roof Bolter	Galis	300	12742931	05-76	1		30,951
0098	BF	10	02	51	10	Roof Bolter	Galis	300	12742932	05-76	1		30,951
0099	BF	10	02	51	10	Roof Bolter	Galis	300	4742610	02-75	1		26,172
0100	BF	10	02	51	10	Roof Bolter	Galis	300	4742612	05-75	1		25,425
0101	BF	10	02	51	10	Roof Bolter	Galis	300	4742614	07-75	1		24,563
0102	BF	10	02	51	10	Roof Bolter	Galis	300	4742608	01-75	1		22,964
0103	BF	10	02	51	10	Roof Bolter	Galis	300	4742609	01-75	1		24,113
0105	BF	10	04	51	01	Continuous Miner	Lee Norse	CM245	7129	11-74	1		205,508
0106	BF	10	04	51	01	Continuous Miner	Lee Norse	CM245	7128	11-74	1		205,508
0107	BF	10	04	51	02	Continuous Miner	Lee Norse	CM245	7133	06-75	1		243,095
0108	BF	10	04	51	02	Continuous Miner	Lee Norse	CM245	7401	09-75	1		243,095
0110	BF	10	06	51	19	Rock Duster	S & S Mach.	None	TD-7522	03-75	1		4,556
0111	BF	10	06	51	19	Rock Duster	S & S Mach.	None	TD-7523	03-75	1		4,555
0112	BF	10	06	51	19	Rock Duster	S & S Mach.	None	TD-7524	03-75	1		4,556
0113	BF	10	06	51	19	Rock Duster	S & S Mach.	None	TD-74212	03-75	1		3,644
0114	BF	10	06	51	19	Rock Duster	S & S Mach.	None	TD-7535	03-75	1		3,644
0115	BF	10	06	51	19	Rock Duster	S & S Mach.	None	TD-7536	03-75	1		3,645
0116	BF	10	06	51	19	Rock Duster	S & S Mach.	None	UAD-203	04-75	1		2,338
0117	BF	10	06	51	19	Rock Duster	S & S Mach.	None	UAD-219	04-75	1		2,664
0118	BF	10	06	51	19	Rock Duster	S & S Mach.	None	UAD-211	01-75	1		2,166
0119	BF	10	06	51	19	Rock Duster	S & S Mach.	None	TD-74155	01-75	1		3,644
0120	BF	10	06	51	19	Rock Duster	S & S Mach.	None	TD-7521	03-75	1		4,553
0121	BF	10	07	51	06	Coal Hing. Trailer	S & S Mach.	4718H	SSI 122	06-75	1		9,812
0122	BF	10	07	51	06	Coal Hing. Trailer	S & S Mach.	4718H	SSI 125	11-75	1		9,812
0123	BF	10	07	51	06	Coal Hing. Trailer	S & S Mach.	4718H	SSI 126	11-75	1		9,812
0124	BF	10	07	51	06	Coal Hing. Trailer	S & S Mach.	4718H	SSI 254	11-75	1		9,811
0125	BF	10	07	51	06	Coal Hing. Trailer	S & S Mach.	4718H	SSI 256	11-75	1		9,811
0126	BF	10	07	51	06	Coal Hing. Trailer	S & S Mach.	4718H	SSI 258	11-75	1		9,812
0127	BF	10	07	51	06	Coal Hing. Trailer	S & S Mach.	4718H	SSI 121	06-75	1		9,812
0128	BF	10	07	51	06	Coal Hing. Trailer	S & S Mach.	4718H	SSI 116	01-75	1		8,223
0129	BF	10	07	51	06	Coal Hing. Trailer	S & S Mach.	4718H	SSI 117	01-75	1		6,713
0130	BF	10	07	51	06	Coal Hing. Trailer	S & S Mach.	4718H	SSI 118	01-75	1		8,223
0005	BF	10	04	51	56	Continuous Miner	Lee Norse	HH265	7664	07-76	1		301,795
0403	BF	10	07	51	06	Coal Hing. Trailer	S & S Mach.	4718H	SSI 323	09-76	1		9,846
0404	BF	10	07	51	06	Coal Hing. Trailer	S & S Mach.	4718H	SSI 317	09-76	1		9,846
0405	BF	10	07	51	06	Coal Hing. Trailer	S & S Mach.	4718H	SSI 324	09-76	1		9,846
0411	BF	40	01	51	70	Water Pump	Trash Pump	30SAU3600	--	09-76	1		1,282

\$1,580,513*

PETER WHITE PROJECT
EQUIPMENT LIST
UNDERGROUND EQUIPMENT
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ID	MI	CR	CL	SEQ	PC	DESCRIPTION	MANUFACTURER	MODEL #	SERIAL #	MO/YR	QUANTITY	UNIT COST	Capitalized Cost	D
0131	BF	20	07	51	25	Coal Bins	Bristol	16X16-3	None	09-74	3	\$ 21,890	\$ 65,699	1
0132	BF	20	01	51	11	Belt Head Tail & Stct	36"	97-925	Drive	09-74	5	25,985	129,923	1
0133	BF	20	01	51	12	Belt Head Tail & Stct	42"	--	Belt	11-74	52,952	7.42	393,052	1
0134	BF	20	01	51	32	Belt Head Tail & Stct	42"	--	Belt	11-74	12,596	23.00	289,664	1
0137	BF	10	10	51	38	Battery Locomotive	New River Mfg.	None	300-0003	04-76	1	49,757	49,757	1
0138	BF	10	11	51	43	Rail Cars	ACDF Ind.	None	None	04-76	24	4,896	117,499	1
0139	BF	10	12	51	27	Personnel Carrier	Jeep	111-A	1	01-75	1	8,950	8,950	1
													\$1,054,544*	

PETER WHITE PROJECT
EQUIPMENT LIST
UNDERGROUND EQUIPMENT
AS OF 9-28-76

ID	MI	GR	CL	SEQ	PC	DESCRIPTION	MANUFACTURER	MODEL #	SERIAL #	MO/YR	QUANTITY	Capitalized	
												UNIT COST	Cost
0140	BF	10	12	51	27	Personnel Carrier	Jeep	111-A	2	01-75	1		\$ 8,950
0141	BF	10	12	51	27	Personnel Carrier	Jeep	111-A	3	01-75	1		8,950
0142	BF	10	12	51	27	Personnel Carrier	Jeep	111-A	4	01-75	1		8,950
0143	BF	10	12	51	27	Personnel Carrier	Jeep	111-A	5	01-75	1		10,293
0144	BF	10	12	51	27	Personnel Carrier	Jeep	111-A	6	01-75	1		10,293
0145	BF	20	02	51	03	Battery Charger	S & S Mach.	MA40	231	11-75	1		2,546
0146	BF	20	02	51	03	Battery Charger	S & S Mach.	MA40	230	11-75	1		2,545
0147	BF	20	02	51	05	Battery Charger	S & S Mach.	MA40	941	02-75	1		2,545
0148	BF	20	02	51	05	Battery Charger	S & S Mach.	MA40	1178	06-75	1		2,545
0149	BF	20	02	51	05	Battery Charger	S & S Mach.	MA40	1096	06-75	1		2,545
0150	BF	20	02	51	05	Battery Charger	S & S Mach.	MA40	674	08-76	1		2,668
0151	BF	20	02	51	05	Battery Charger	S & S Mach.	MA40	641	08-76	1		2,668
0152	BF	20	02	51	05	Battery Charger	S & S Mach.	MA40	712	08-76	1		2,669
0153	BF	20	02	51	05	Battery Charger	S & S Mach.	MA40	1097	04-75	1		
0154	BF	20	02	51	05	Battery Charger	S & S Mach.	MA40	244	01-75	1		2,545
0155	BF	20	02	51	05	Battery Charger	S & S Mach.	MA40	243	01-75	1		2,546
0156	BF	20	02	51	09	Battery Charger	S & S Mach.	MA40	1094	03-75	1		2,495
0157	BF	20	02	51	09	Battery Charger	S & S Mach.	MA40	1095	03-75	1		2,494
0158	BF	20	02	51	09	Battery Charger	S & S Mach.	MA40	1098	06-75	1		2,494
0159	BF	20	02	50	19	Battery Charger	S & S Mach.			07-76	1		4,931
0160	BF	20	02	51	27	Battery Charger	S & S Mach.	230 Volts		09-75	1		1,505
0161	BF	20	03	51	04	Battery Sets	Gould, Inc.			08-76	1		14,809
0162	BF	20	03	51	04	Battery Sets	Gould, Inc.	6455X19		01-75	2		196,423
0163	BF	20	03	51	59	Battery Sets	Gould, Inc.	60-85X-11		07-76	1		4,626
0164	BF	20	03	51	59	Battery Sets	Gould, Inc.	60-75X-11		07-76	1		4,626
0165	BF	20	10	50	23	Conveyor Head & Tail		36 Inch	Take up	08-76	1		7,319
0166	BF	20	05	51	33	Engd. Railroad				08-76	1		97,039
0399	BF	10	15	51	59	Rail Runners	New River	11R	M100353	09-76	1		23,689
0400	BF	10	15	51	59	Rail Runners	New River	11R	M100362	09-76	1		23,689
0401	BF	10	15	51	58	Rail Runners	New River	11N	65	08-76	1		21,448
0408	BF	10	15	51	58	Rail Runners	New River	11N	66	08-76	1		21,448
0409	BF	10	15	51	60	Rail Runners	New River	11R	200-0033	09-76	1		22,948
0410	BF	20	03	51	61	Battery Sets	Gould, Inc.	6455X19	--	09-76	2	\$6,811	13,623

\$536,319*

ID	MI	GR	CL	SEQ	PC	DESCRIPTION	MANUFACTURER	MODEL #	SERIAL #	MO/YR	QUANTITY	UNIT COST	Capitalized Cost	D
0176	BF	10	09	51	05	Battery Tractor		S&S 270A	270A361	01-75	1		\$ 34,066	1
0177	BF	10	09	51	05	Battery Tractor		S&S 270A	270A305	01-75	1		34,066	1
0178	BF	10	09	51	03	Battery Tractor		S&S 270A	270A297	11-75	1		35,912	1
0179	BF	10	09	51	03	Battery Tractor		S&S 270A	270A302	11-75	1		35,912	1
0180	BF	10	09	51	03	Battery Tractor		S&S 270A	270A107	02-75	1		36,198	1
0181	BF	10	09	51	03	Battery Tractor		S&S 270A	270A106	02-75	1		36,198	1
0182	BF	10	09	51	03	Battery Tractor		S&S 270A	270A111	02-75	1		26,879	1
0183	BF	10	09	51	03	Battery Tractor		S&S 270A	270A108	02-75	1		26,879	1
0184	BF	10	09	51	03	Battery Tractor		S&S 270A	270A132	02-75	1		34,067	1
0185	BF	10	09	51	03	Battery Tractor		S&S 270A	270A133	02-75	1		34,066	1
0186	BF	10	09	51	03	Battery Tractor		S&S 270A	270A396	08-76	1		35,354	1
0187	BF	10	09	51	03	Battery Tractor		S&S 270A	270A395	08-76	1		35,354	1
0188	BF	10	09	51	03	Battery Tractor		S&S 270A	270A390	08-76	1		35,354	1
													\$440,305*	

[illegible]

PETER WHITE PROJECT
EQUIPMENT LIST
OUTSIDE ELECTRICAL FACILITIES
AS OF 9-28-76

ID	MI	GR	CL	SEQ	PC	DESCRIPTION	MANUFACTURER	MODEL #	SERIAL #	MO/YR	QUANTITY	UNIT COST	Capitalized Cost	D
0211	SF	30	02	52	13	Lite Plant	Maxi Lite	L026MTVE	17528	04-75	1		\$ 9,272	2
0212	SF	30	02	52	13	Lite Plant	Maxi Lite	L026MTVE	17529	04-75	1		9,272	2
0213	SF	30	02	52	13	Lite Plant	Maxi Lite	L026MTVE	17530	04-75	1		9,272	2
0214	SF	30	02	52	13	Lite Plant	Maxi Lite	L026MTVE	17526	04-75	1		9,273	2
0215	SF	30	02	52	13	Lite Plant	Maxi Lite	L026MTVE	17527	04-75	1		9,273	2
0216	SF	38	04	55	02	Mobile Trailer	Fruehauf	None	FW81302	09-74	1		2,154	2
0217	SF	38	04	56	02	Mobile Trailer	Strick	None	B8816	01-75	1		2,177	2
0218	SF	38	04	56	02	Mobile Trailer	Trailmobile	None	175764	02-75	1		2,177	2
0219	SF	38	08	52	05	Powder Magazines	5x5x5	None	None	10-75	1		2,588	2
0220	SF	40	02	52	15	Air Compressor	Joy	850CFM	--	09-74	1		77,116	2
													\$132,574*	

PETER WHITE PROJECT
EQUIPMENT LIST
OUTSIDE ELECTRICAL FACILITIES
AS OF 9-28-76

<u>ID</u>	<u>MI</u>	<u>GR</u>	<u>CL</u>	<u>SEQ</u>	<u>PC</u>	<u>DESCRIPTION</u>	<u>MANUFACTURER</u>	<u>MODEL #</u>	<u>SERIAL #</u>	<u>MO/YR</u>	<u>QUANTITY</u>	<u>UNIT COST</u>	<u>Capitalized Cost</u>	<u>D</u>
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NONE

PETER WHITE PROJECT
EQUIPMENT LIST
OUTSIDE ELECTRICAL FACILITIES

PAGE 11

ID	MI	GR	CL	SEQ	PC	DESCRIPTION	MANUFACTURER	MODEL #	SERIAL #	MO/YR	QUANTITY	UNIT COST	Capitalized	
													Cost	D
0223	NM	30	10	55	03	Power Lines	18' Crossarms	None	None	06-75	45 ea.	\$	\$ 22,395	2
0224	NM	30	10	55	03	Power Lines	8' Crossarms	None	None	06-75	150 ea.		11,075	2
0225	NM	30	10	55	03	Power Lines	10' Crossarms	None	None	06-75	10 ea.		2,713	2
0226	NM	30	10	55	03	Power Lines	35' Ut. Poles	None	None	06-75	86 ea.		62,050	2
0227	NM	30	10	55	03	Power Lines	45' Ut. Poles	None	None	06-75	43 ea.	1,563	67,213	2
0228	NM	30	10	55	03	Power Lines	Light Arrest	None	None	06-75	44 ea.	148	6,493	2
0229	NM	30	10	55	03	Power Lines	Guy Wire	None	None	06-75	5,000 ft.	2	11,538	2
0230	NM	30	10	55	03	Power Lines	B. Al. Wire	None	None	06-75	200 ft.	1	118	2
0231	NM	30	10	55	03	Power Lines	B. Cu. Wire	None	None	06-75	2,850 ft.	3	8,396	2
0232	NM	30	10	55	03	Power Lines	1/0 ACSR Cabl.	None	None	06-75	168,565 ft.	1	119,289	2

\$311,280*

PETER WHITE PROJECT
EQUIPMENT LIST
OUTSIDE ELECTRICAL FACILITIES
AS OF 9-28-76

<u>ID</u>	<u>MI</u>	<u>GR</u>	<u>CL</u>	<u>SEQ</u>	<u>PC</u>	<u>DESCRIPTION</u>	<u>MANUFACTURER</u>	<u>MODEL #</u>	<u>SERIAL #</u>	<u>MO/YR</u>	<u>QUANTITY</u>	<u>UNIT COST</u>	<u>Capitalized Cost</u>	<u>D</u>
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NONE

PETER WHITE PROJECT
EQUIPMENT LIST
OUTSIDE ELECTRICAL FACILITIES

[illegible]

ID	MI	GR	CL	SEQ	PC	DESCRIPTION	MANUFACTURER	MODEL #	SERIAL #	MO/YR	QUANTITY	UNIT COST	Cost
0241	PW	30	01	55	01	Transformer			15687	11-74	6	\$ 69,645	\$ 69,645*

[illegible]

PETER WHITE PROJECT
EQUIPMENT LIST
BUILDINGS
AS OF 9-28-76

<u>ID</u>	<u>MI</u>	<u>GR</u>	<u>CL</u>	<u>SEQ</u>	<u>PC</u>	<u>DESCRIPTION</u>	<u>MANUFACTURER</u>	<u>MODEL #</u>	<u>SERIAL #</u>	<u>MO/YR</u>	<u>QUANTITY</u>	<u>UNIT COST</u>	<u>Capitalized Cost</u>	<u>D</u>
0267	BH	38	05	51	49	Mobile Office	CHES-LO		24075	08-76	1		\$ 6,340	3
0268	BH	38	06	51	49	Mobile Lamphouse	CHES-LO		24079	08-76	1		6,341	3
													\$ 12,681*	

PETER WHITE PROJECT
EQUIPMENT LIST
BUILDING
AS OF 9-28-76

ID	MI	GR	CL	SEQ	PC	DESCRIPTION	MANUFACTURER	MODEL #	SERIAL #	MO/YR	QUANTITY	UNIT COST	Capitalized	
													Cost	D
0270	GO	70	01	56	01	Buildings	Office and Supply	--	--	04-75	1		\$351,366	3
0271	GO	70	02	56	03	Office Equipment	Monroe Calc.	1410	D150719	04-76	1		390	3
0272	GO	70	02	56	03	Office Equipment	Desk	--	--	08-76	1		327	3
0273	GO	70	02	56	03	Office Equipment	Credenza	--	--	08-76	1		318	3
0274	GO	70	02	56	03	Office Equipment	Chairs & Files	--	--	07-76	1		840	3
0275	GO	70	02	56	03	Office Equipment	Typewriter	SCM	299194	08-76	1		345	3
0276	GO	70	02	56	03	Office Equipment	Monroe Calc.	1310	F685542	03-75	1		425	3
0277	GO	70	02	56	03	Office Equipment	Monroe Calc.	1310	F685633	03-75	1		425	3
0278	GO	70	02	56	03	Office Equipment	Legal Files	--	--	03-75	1		152	3
0279	GO	70	02	56	03	Office Equipment	Typewriter	IBM	2701183	05-75	1		886	3
0280	GO	70	02	56	03	Office Equipment	Typewriter	IBM	2701982057	05-75	1		886	3
0281	GO	70	02	56	03	Office Equipment	Furniture	--	--	05-75	3		6,940	3
0282	GO	70	02	56	03	Office Equipment	Furniture	--	--	05-75	3		6,940	3
0283	GO	70	02	56	03	Office Equipment	Lockers	--	--	11-75	3		888	3
0285	GO	70	02	56	06	Office Equipment	Radios	Mobile		05-76			12,309	3
0286	GO	70	02	56	12	Office Equipment	PH Meter	--	--	05-76	1		193	3
0287	GO	70	02	56	15	Office Equipment	Survey Transit	--	132880	07-76	1		1,578	3
0288	GO	70	02	56	15	Office Equipment	Survey Equip.	--	--	07-76			3,166	3
0397	GO	70	02	56	03	Office Equipment	Rockwell Calc.		361951	09-76	1		145	3
0398	GO	70	02	56	03	Office Equipment	Rockwell Calc.		453989	09-76	1		168	3

\$388,687*

PETER WHITE PROJECT
EQUIPMENT LIST
PREPARATION PLANT
AS OF 9-28-76

ID	MI	GR	CL	SEQ	PC	DESCRIPTION	MANUFACTURER	MODEL #	SERIAL #	MO/YR	QUANTITY	UNIT COST	Capitalized	
													Cost	D
0292	PP	60	05	54	01	Railroad Track	Modification	--	--	02-76			\$ 34,454	
0296	PP	60	01	53	02	Preparation Plant	--	--	--	06-75			2,967,877	
0306	PP	60	06	53	08	Water Supply	--	--	--	06-75			114,654	
0313	PP	60	02	53	05	Coal Silos	--	--	--	06-75			1,803,468	
0317	PP	60	03	53	04	Rotary Breaker	--	--	--	06-75			140,649	
0320	PP	60	04	56	05	Weigh Scales	--	--	--	06-75			26,662	

\$5,089,764*

PETER WHITE PROJECT
EQUIPMENT LIST
DOZERS, LOADERS
AS OF 9-28-76

ID	MI	GR	CL	SEQ	PC	DESCRIPTION	MANUFACTURER	MODEL #	SERIAL #	MO/YR	QUANTITY	UNIT COST	Capitalized Cost
0324	BH	38	63	52	16	Bulldozer	Caterpillar	D7F	94N2708	04-74	1	\$ 74,521	\$ 74,521*

[illegible]

PETER WHITE PROJECT
EQUIPMENT LIST
DOZERS, LOADERS
AS OF 9-28-76

ID	MI	GR	CL	SEQ	PC	DESCRIPTION	MANUFACTURER	MODEL #	SERIAL #	MO/YR	QUANTITY	UNIT COST	Capitalized Cost
0347	EP	38	64	52	04	Motor Grader	Caterpillar	12G	61M1747	11-74	1	\$ 58,094	\$ 58,094*

PETER WHITE PROJECT
EQUIPMENT LIST
UNDERGROUND EQUIPMENT
AS OF 9-28-76

ID	MI	GR	CL	SEQ	PC	DESCRIPTION	MANUFACTURER	MODEL #	SERIAL #	MO/YR	QUANTITY	UNIT COST	Capitalized Cost	D
0353	PW	10	16	51	37	Equipment Canopies	Decker	--	--	06-75	20	\$1,080	\$ 21,608	1
													\$ 21,608*	

PETER WHITE PROJECT
EQUIPMENT LIST
DOZERS, LOADERS
AS OF 9-28-76

[illegible]

PETER WHITE PROJECT
EQUIPMENT LIST
AUTOS, TRUCKS
AS OF 9-28-76

PAGE 25

ID	MI	GR	CL	SEQ	PC	DESCRIPTION	MANUFACTURER	MODEL #	SERIAL #	MO/YR	QUANTITY	UNIT COST	Capitalized Cost	D
0355	SF	38	01	52	06	Trucks	Mack 74	None	MB457P2443	09-74	1		\$ 21,698	4
0356	SF	38	01	52	06	Trucks	Mobile Ser. U.	None	1538-1	11-74	1		21,582	4
0357	SF	38	01	52	06	Trucks	Mobile Ser. U.	None	1538-2	02-75	1		20,644	4
0358	SF	38	01	52	06	Trucks	Mack 74	None	MB457P2635	01-75	1		23,749	4
0359	SF	38	01	52	07	Trucks	Mack 75	DM685S	25079	01-75	1		39,425	4
0360	SF	38	01	52	07	Trucks	Water Tank	None	None	02-75	1		13,853	4
0361	SF	38	01	52	21	Trucks	Hydroseeder	2500	200375845	07-75	1		18,173	4
0363	SF	38	02	52	11	Dump Truck	Euclid 75	R-75	64780	04-75	1		249,272	4
0364	SF	38	02	52	11	Dump Truck	Euclid 75	R-75	64777	04-75	1		249,272	4
0365	SF	38	02	52	11	Dump Truck	Euclid 75	R-75	64778	04-75	1		249,272	4
0366	SF	38	02	52	11	Dump Truck	Euclid 75	R-75	64779	04-75	1		249,272	4
0367	SF	38	02	52	14	Dump Truck	Mack 75	None	M335XC3255	06-75	1		118,276	4
0368	SF	38	02	52	14	Dump Truck	Mack 75	None	M335XC3257	06-75	1		118,276	4
0369	SF	38	02	52	14	Dump Truck	Mack 75	None	M335XC3256	06-75	1		118,277	4
0370	SF	38	02	52	14	Dump Truck	Mack 75	None	M335XC3251	04-75	1		118,277	4
0371	SF	38	02	52	35	Dump Truck	Euclid	R-35	63-005	04-76	1		44,937	4
0372	SF	38	02	52	35	Dump Truck	Euclid	R-35	51-549	04-76	1		44,939	4
0373	SF	38	03	52	12	Auto	Ford 75	3/4 Ton PU	F26YUV40384	11-74	1		6,769	4
0374	SF	38	03	52	12	Auto	Chevy 75	3/4 Ton PU	CKY245F365183	03-75	1		6,490	4
0375	SF	38	03	52	26	Auto	Ford 75	3/4 Ton PU	F26YUW60093	07-75	1		6,517	4

\$1,738,970*

PETER WHITE PROJECT
EQUIPMENT LIST
AUTOS, TRUCKS
AS OF 9-28-76

ID	MI	GR	CL	SEQ	PC	DESCRIPTION	MANUFACTURER	MODEL #	SERIAL #	MO/YR	QUANTITY	UNIT COST	Capitalized Cost	D
0380	PW	38	01	55	02	Trucks	GMC 1952		13119	09-74	1		\$ 2,724	4
0381	PW	38	01	55	02	Trucks	GMC 1952		12113	09-74	1		2,724	4
0382	PW	38	01	52	174	Trucks	GMC 1974		TKV184F514911	07-74	1		5,288	4
													\$ 10,736*	

PETER WHITE PROJECT
EQUIPMENT LIST
AUTOS, TRUCKS
AS OF 9-28-76

ID	MI	GR	CL	SEQ	PC	DESCRIPTION	MANUFACTURER	MODEL #	SERIAL #	MO/YR	QUANTITY	UNIT COST	Capitalized Cost	D
0383	BF	38	03	50	04	Automobile	Chevy-74	Blazer	CKY184F141388	06-74	1	\$ 5,319		4
0387	BF	38	01	50	21	Truck	Chevy-75	Blazer	CKY185F163913	07-75	1	5,806		4
0388	BF	38	01	52	39	Truck	Chevy-76	1 Ton Stk.CCL	3361131678	05-76	1	6,154		4
0389	BF	38	02	51	23	Dump Truck	Mack-74	DM435X2742		09-74	1	50,148		4
0390	BF	38	02	51	23	Dump Truck	Mack-74	DM435X27+3		09-74	1	50,148		4
0391	BF	38	02	52	25	Dump Truck	Mack-75	DM435X18698		06-75	1	46,510		4
0392	BF	38	02	52	25	Dump Truck	Mack-75	DM435X27113		06-75	1	46,776		4
0393	BF	38	03	52	22	Automobile	Dodge-75	Ramcharger	A10BE5X060555	03-75	1	6,824		4
													\$217,785*	

PETER WHITE PROJECT
EQUIPMENT LIST
RECAPITULATION PAGE
AS OF 9-28-76

Major Groups	Brushy Fork	Spring Fork	B & H	E & P	CNB	Norma	General Office	Preparation Plant	Peter White Not Classified	Total
Underground Equipment	\$4,217,109	\$ -	\$1,248,243	\$44,484	\$371,169	\$212,065	\$ -	\$ -	\$ 40,338	\$ 6,133,428
Outside Electrical Facilities	-	132,574	-	-	-	311,280	-	11,684	69,645	525,183
Buildings	-	-	12,681	-	-	-	388,687	5,089,764	-	5,491,132
Diggers, Loaders, Etc.	18,347	2,343,253	74,521	58,094	-	-	-	110,565	-	2,604,780
Autos, Trucks	217,785	1,738,970	-	-	-	5,301	-	-	10,736	1,972,792
TOTAL	\$4,453,241	\$4,214,797	\$1,335,445	\$102,578	\$371,169	\$528,646	\$388,687	\$5,212,013	\$120,739	\$16,727,315

SCHEDULE B-1

Form of 10½% Note

EASTOVER LAND COMPANY

10½% Senior Secured Note due December 1, 1985

No. A-

\$

Eastover Land Company, a Kentucky corporation ("the Company"), for value received, hereby promises to pay to

or registered assign* on or before December 1, 1985, as hereinafter provided, the principal sum of Dollars, and to pay interest on the unpaid principal amount thereof from the date hereof to maturity at the rate of 10½% per annum, and to pay interest on any overdue principal, premium and interest at the lower of 11½% per annum or the highest rate permitted by applicable law, in each case computed as if each year consisted of 360 days and each month consisted of 30 days. Such principal, premium, if any, and interest shall be payable against presentation of this Note (*except* as otherwise provided in Section 1.06 of the Indenture referred to below), at the Corporate Trust Office, in lawful money of the United States, in the following manner:

(a) interest accruing from the date hereof to December 1, 1976 shall be due and payable on December 1, 1976; and

(b) 36 quarter-annual Instalment Payments, containing both principal and interest, each such Instalment Payment being in an amount equal to 4.3277316% of the original principal amount of this Note, shall respectively be due and payable on March 1, 1977 and on each June 1, September 1, December 1 and March 1 thereafter to and including December 1, 1985, *provided, however*, that the payment on December 1, 1985 shall be in an amount at least equal to the outstanding unpaid principal amount of this Note and all accrued and unpaid interest thereon.

Each Instalment Payment, when paid, shall be applied first to the payment of all interest accrued and unpaid on this Note and then to payment on account of the principal hereof.

This Note is one of the Company's 10½% Senior Secured Notes due December 1, 1985 (the "10½% Notes"), limited in aggregate principal amount to \$18,000,000, which are issued pursuant to, secured as provided in and subject to the provisions of the Trust Indenture and Security Agreement dated as of August 1, 1976 (as amended or supplemented, the "Indenture"), between the Company and Girard Trust Bank, a Pennsylvania banking corporation, as Trustee (the "Trustee"), and which, together with all other Notes of the Company as from time to time may be outstanding under the Indenture, are herein collectively called "the Notes". Reference is hereby made to the Indenture for a description of the provisions upon which Notes are to be issued and secured, the nature and extent of the security and the rights of the holders and others in respect of the Notes and such security. The terms used in this Note and not hereinabove defined have the meanings indicated in Article XI of the Indenture.

This Note is subject to prepayment in the manner, to the extent, under the circumstances and at the price provided for in the Indenture.

During the continuance of an Event of Default under the Indenture, the principal hereof and the interest accrued and unpaid hereon may be declared to be due and payable forthwith as provided in the Indenture.

* For Order Notes, "registered assigns" becomes "order".

SCHEDULE B-2

Form of 9½% Note

EASTOVER LAND COMPANY

9½% Senior Secured Note due December 1, 1985

No. A-

\$

Eastover Land Company, a Kentucky corporation ("the Company"), for value received, hereby promises to pay to

or registered assigns* on or before December 1, 1985, as hereinafter provided, the principal sum of Dollars, and to pay interest on the unpaid principal amount thereof from the date hereof to maturity at the rate of 9½% per annum, and to pay interest on any overdue principal, premium and interest at the lower of 10½% per annum or the highest rate permitted by applicable law, in each case computed as if each year consisted of 360 days and each month consisted of 30 days. Such principal, premium, if any, and interest shall be payable against presentation of this Note (*except* as otherwise provided in Section 1.06 of the Indenture referred to below), at the Corporate Trust Office, in lawful money of the United States, in the following manner:

(a) interest accruing from the date hereof to September 1, 1977 shall be due and payable on September 1, 1977; and

(b) 33 quarter-annual Instalment Payments, containing both principal and interest, each such Instalment Payment being in an amount equal to 4.4054395% of the original principal amount of this Note, shall respectively be due and payable on December 1, 1977 and on each March 1, June 1, September 1 and December 1 to and including December 1, 1985, *provided, however*, that the payment on December 1, 1985 shall be in an amount at least equal to the outstanding unpaid principal amount of this Note and all accrued and unpaid interest thereon.

Each Instalment Payment, when paid, shall be applied first to the payment of all interest accrued and unpaid on this Note and then to payment on account of the principal hereof.

This Note is one of the Company's 9½% Senior Secured Notes due December 1, 1985 (the "9½% Notes"), limited in aggregate principal amount to \$7,700,000, which are issued pursuant to, secured as provided in and subject to the provisions of the Trust Indenture and Security Agreement dated as of August 1, 1976 (as amended or supplemented, the "Indenture"), between the Company and Girard Trust Bank, a Pennsylvania banking corporation, as Trustee (the "Trustee"), and which, together with all other Notes of the Company as from time to time may be outstanding under the Indenture, are herein collectively called "the Notes". Reference is hereby made to the Indenture for a description of the provisions upon which Notes are to be issued and secured, the nature and extent of the security and the rights of the holders and others in respect of the Notes and such security. The terms used in this Note and not hereinabove defined have the meanings indicated in Article XI of the Indenture.

This Note is subject to prepayment in the manner, to the extent, under the circumstances and at the price provided for in the Indenture.

During the continuance of an Event of Default under the Indenture, the principal hereof and the interest accrued and unpaid hereon may be declared to be due and payable forthwith as provided in the Indenture.

By acceptance of this Note the holder hereof expressly agrees as provided in, and confirms, Section 4.1 of the Note Agreements and Sections 6.07, 8.05(b), 8.05(c) and 10.01 of the Indenture and confirms the appointment of the Trustee as the attorney-in-fact of the holder hereof for the purposes specified in Section 6.07(b).

* For Order Notes, "registered assigns" becomes "order".

SCHEDULE C
FORM OF INDENTURE SUPPLEMENT

SUPPLEMENTAL INDENTURE AND SECURITY AGREEMENT NO.

Dated as of
, 197

BETWEEN

EASTOVER LAND COMPANY

AND

GIRARD TRUST BANK,
as Trustee

**Supplemental to Trust Indenture and Security Agreement dated as of August 1, 1976,
between Eastover Land Company and Girard Trust Bank, as Trustee.**

SUPPLEMENTAL INDENTURE AND SECURITY AGREEMENT NO. dated as of
, 197 (herein called "this Indenture Supplement") between EASTOVER LAND COMPANY,
a Kentucky corporation, having a principal place of business at Brookside, Kentucky 40811 (herein,
together with its successors and assigns, called the "Company"), and GIRARD TRUST BANK, a Pennsyl-
vania banking corporation, having an address at 4 Girard Plaza, Philadelphia, Pennsylvania 19101, as
Trustee (herein, in such capacity, together with its permitted successors in the trusts under the Inden-
ture described below, called the "Trustee") under the Trust Indenture and Security Agreement dated
as of August 1, 1976, as supplemented or amended to the date hereof (herein, as the same may be
further supplemented or amended from time to time as permitted thereby, called the "Indenture"),
between the Company and the Trustee.

PRELIMINARY STATEMENT

The terms used in this Indenture Supplement and not defined herein have the meanings specified
in the Indenture.

The Company has entered into the Indenture with the Trustee. The Company has purchased the
items of equipment described in Schedule A hereto (herein called the "Equipment"). In order to finance
the Capitalized Costs of the Equipment, the Company has issued and sold its *[10½% Senior Secured
Notes due December 1, 1985]** [9½% Senior Secured Notes due December 1, 1985] and as security
therefor desires to Grant the Equipment to the Trustee and to confirm the lien of the Indenture with
respect to the Trust Estate.

In consideration of the foregoing, the indebtedness evidenced by the Notes, and other good and
valuable consideration the receipt of which is hereby acknowledged, the Company hereby Grants to the
Trustee all of the Company's estate, right, title, interest, claim and demand in, to and under the Property
described in the Granting Clause of this Indenture Supplement and hereby agrees with the Trustee as
hereinafter provided in this Indenture Supplement.

GRANTING CLAUSE FIRST

THE EQUIPMENT

The Equipment, including all the items of personal Property described in Schedule A hereto and
all the replacements therefor required or intended to be subject to the lien of the Indenture pursuant to
the terms thereof.

To HAVE AND TO HOLD all and singular the Property described in the above Granting Clause,
whether now owned or held or hereafter acquired; unto the Trustee forever;

SUBJECT, HOWEVER, to Permitted Encumbrances;

IN TRUST, NEVERTHELESS, with power of sale, for the equal and ratable benefit and security of the
Notes, without preference, priority or distinction of any thereof over any other by reason of difference
in time of issuance or otherwise, and for the enforcement of the payment of the principal of, premium,
if any, and interest on, the Notes in accordance with their respective terms, and all other sums payable
under the Indenture, or on the Notes, and compliance with the provisions of the Indenture, all as
provided in the Indenture.

IT IS HEREBY COVENANTED, DECLARED AND AGREED that the Property described in the above
Granting Clause is to be held, dealt with and disposed of by the Trustee upon and subject to the provi-
sions of the Indenture.

* Bracketed language to be used only for Future Equipment pursuant to Section 1.6(a) of the Note
Agreements.

** Bracketed language to be used only for closing of sale of 9½% Notes.

STATE OF
COUNTY OF

} ss.:

On this day of , before me personally came , to me known, who, being by me duly sworn, did depose, say and acknowledge that he resides at ; that he is a of EASTOVER LAND COMPANY, one of the corporations described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

[NOTARIAL SEAL]

My commission expires

.....
Notary Public

STATE OF
COUNTY OF

} ss.:

On this day of , before me personally came , to me known, who, being by me duly sworn, did depose, say and acknowledge that he resides at ; that he is a of GIRARD TRUST BANK, one of the corporations described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

[NOTARIAL SEAL]

My commission expires

.....
Notary Public

SCHEDULE D

[FORM OF RELEASE]

RELEASE

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of the sum of One Dollar (\$1.00) in hand paid by
to GIRARD TRUST BANK, a Pennsylvania banking corporation, as Trustee
(herein called "the Trustee") under the Trust Indenture and Security Agreement dated as of August 1,
1976, between EASTOVER LAND COMPANY, a Kentucky corporation (herein called "the Company"),
and the Trustee, as the same may heretofore have been amended or supplemented as permitted thereby,
and of other good and valuable consideration, at and before the sealing and delivery of these presents,
the receipt whereof is hereby acknowledged, the Trustee, for itself and for its successors and assigns,
has remised, released, quitclaimed and conveyed, and by these presents does remise, release, quitclaim
and convey, without any recourse, warranty or representation on its part, all of its estate, right, title and
interest in, to and under the property described in Exhibit A hereto (herein called "the Released Prop-
erty"), unto , its successors and assigns.

To HAVE AND TO HOLD the Released Property unto , its successors and
assigns, forever.

This Release shall not impair, diminish or release any property or any estate, right, title or interest
therein, thereto or thereunder not expressly described herein.

IN WITNESS WHEREOF, the Trustee has caused this Release to be duly executed under its seal
as of the day of, 19.....

**GIRARD TRUST BANK,
as Trustee**

[CORPORATE SEAL]

By

Attest:

.....